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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 1101

GORDON L. EVANSON AND MELBA P. EVANSON
PAUL DAN ROSSO AND PAULINA M. ROSSO,
PETITIONERS,

VS.

NORTHWEST HOLDING COMPANY,
A MINNESOTA CORPORATION,
RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals
for the Eighth Circuit.

PAUL DAN ROSSO
MELBA P. EVANSON
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

In Their Own Behalf
PETITIONERS

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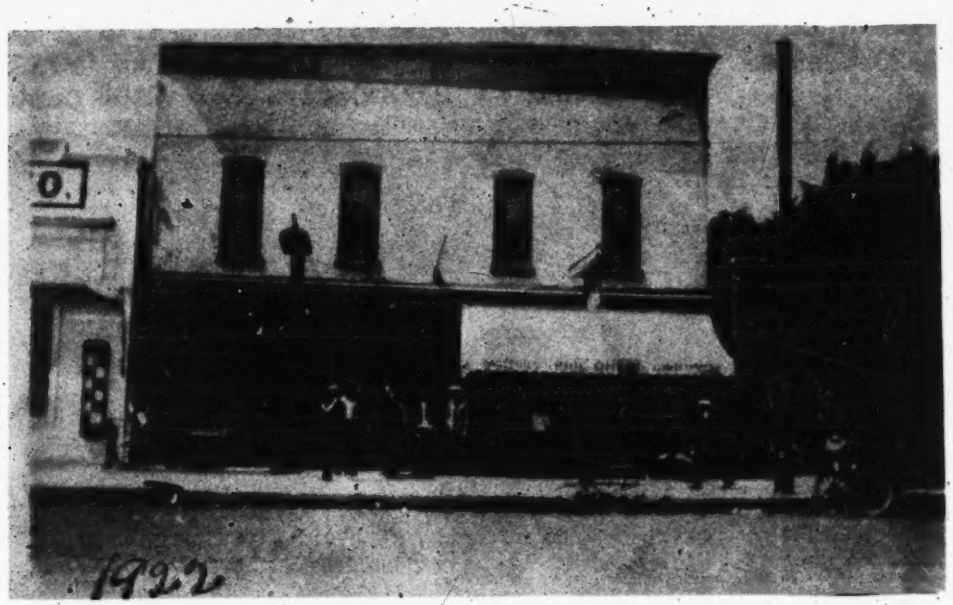
PATTON ON TITLES SECOND EDITION

THE HOMESTEAD - 2324-2326 CENTRAL AVENUE N. E.
IN 1922 MINNEAPOLIS, MINNESOTA



THE HOMESTEAD - 2324-2326 CENTRAL AVENUE N. E.
IN 1967 MINNEAPOLIS, MINNESOTA

[redacted]

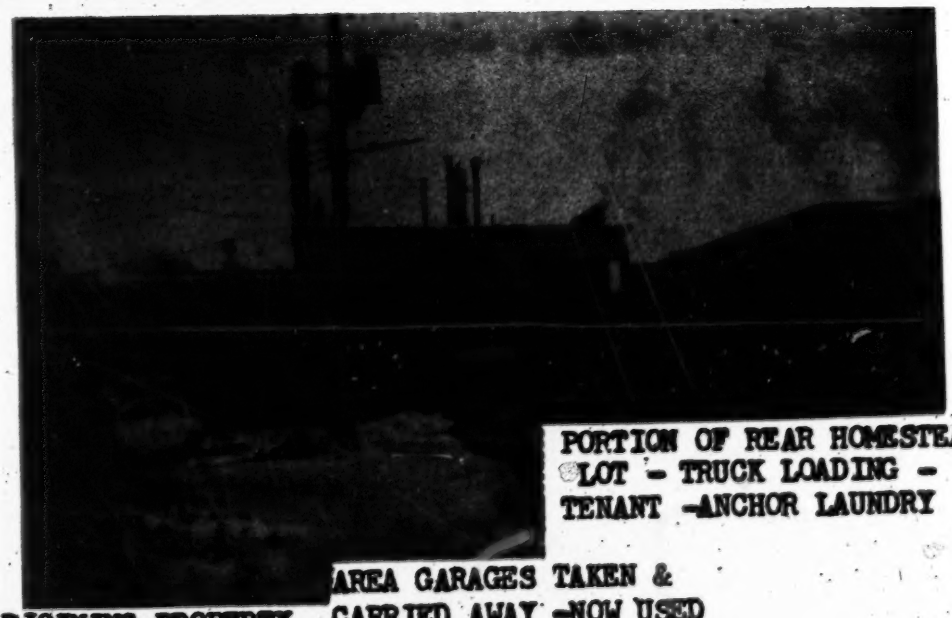
ANCHOR LAUNDRY
2320 Central

HOMESTEAD
2324-26
Central

FIDELITY SEC.
& INV. CO.
2338 Central

ATTNY. FUDALI
LAW OFFICES
2408 Central

[redacted]

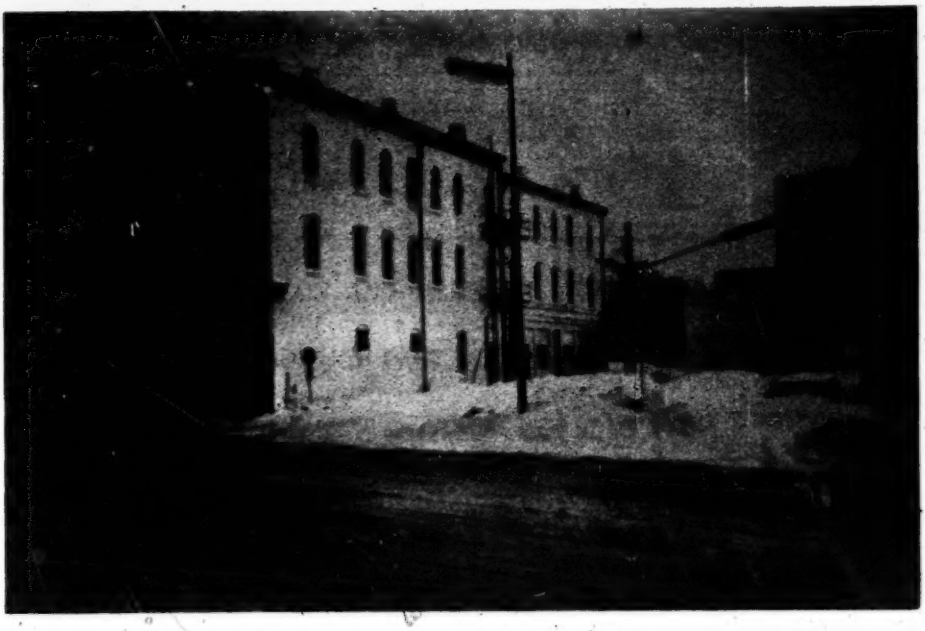


PORTION OF REAR HOMESTEAD
LOT - TRUCK LOADING -
TENANT -ANCHOR LAUNDRY

ADJOINING PROPERTY
FIDELITY SECURITIES

AREA GARAGES TAKEN &
CARRIED AWAY -NOW USED
BY FIDELITY SEC.&INV.CO.

208 EAST HENNEPIN AVENUE
MINNEAPOLIS, MINNESOTA



IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1966

No. .....

GORDON L. EVANSON AND MELBA P. EVANSON

PAUL DAN ROSSO AND PAULINA M. ROSSO,

PETITIONERS,

VS.

NORTHWEST HOLDING COMPANY,

A MINNESOTA CORPORATION,

RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals
for the Eighth Circuit.

OPINION BELOW.

The Opinion of the Court of Appeals is set forth in the Appendix, infra, pp. 116 and is officially reported in 368 F. (2d) 531 (1966).

A TIMELY PETITION FOR WRIT OF MANDAMUS, TO THE U.S. DISTRICT COURT OF MINNESOTA, TO EXERCISE ITS PRESCRIBED JURISDICTION, WAS DENIED, IN A DATED FEBRUARY 16, 1966, ORDER, BY THE U.S. COURT OF APPEALS. (Not yet reported in the Federal Reporter System).

THE FINAL OPINION OF THE U.S. DISTRICT COURT, MINNESOTA, IS NOT REPORTED, AND IS APPENDED AT PAGE 184A.

THE FIRST OPINION OF THE U.S. DISTRICT COURT IS NOT REPORTED, AND IS APPENDED AT PAGE 170A.

THE OPINION OF THE MINN. SUPREME COURT IS OFFICIALLY REPORTED at 265 MINN. 562 (1963).

JURISDICTION

AN OPINION AFFIRMING THE JUDGMENT OF THE U.S. DISTRICT COURT OF MINNESOTA, WHICH DISMISSED PETITIONERS' COMPLAINT, WAS FILED BY THE U.S. COURT OF APPEALS ON NOVEMBER 15, 1966.

A TIMELY MOTION IN ARREST OF JUDGMENT AND THE JUDGMENT IS VOID AND MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING WAS FILED, AND SAME WAS DENIED BY THE COURT ON NOVEMBER 29, 1966.

THE MANDATE OF THE U.S. COURT OF APPEALS WAS ISSUED ON DECEMBER 13, 1966.

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C., SECTION 1254 (1).

QUESTIONS PRESENTED

THE VIOLATION OF PETITIONERS' ABSOLUTE HOMESTEAD RIGHTS TO BE SECURE FROM INVASION AND SEIZURE, IN DISTURBANCE OF THE PUBLIC PEACE, OF THE HOMESTEAD

PROPERTY, TOGETHER WITH THE PERSONAL POSSESSIONS CONTAINED THEREIN, UNDER THE FOURTH AND FIFTH AMENDMENTS OF THE U. S. CONSTITUTION,

AND, THE VIOLATION OF PETITIONERS' RIGHTS TO BE SECURE AGAINST THE MALICIOUS USE AND ABUSE OF LEGAL PROCESS, IN AN INTERLOCKED SERIES OF TRANSACTIONS, INVOLVING FRAUD, COLLUSION, AND CONSPIRACY, TO OBTAIN MONEY, RENTS, REAL AND PERSONAL PROPERTY, UNDER THE FIFTH AND FOURTEENTH AMENDMENTS,

AND, THE VIOLATION OF PETITIONERS' ABSOLUTE RIGHTS, WHILE SEEKING RELIEF IN THE HENNEPIN COUNTY COURT, THE MINNEAPOLIS MUNICIPAL CRIMINAL COURT, AND THE MINNESOTA SUPREME COURT, UNDER THE SEVENTH AND FOURTEENTH AMENDMENTS,

INVOLVES SUBSTANTIAL FEDERAL RIGHTS, AS MADE APPLICABLE TO THE STATES BY ARTICLE IV, SECTIONS 1, 2, and 4, AND AMENDMENTS 4, 5, 6, 7, 9, and 14 of the U. S. CONSTITUTION, IN EACH OF THE FOLLOWING QUESTIONS PRESENTED :

I. IN MINNESOTA SUPREME COURT
II. IN U. S. DISTRICT COURT, AND,
III. IN U. S. COURT OF APPEALS.

I. IN MINNESOTA SUPREME COURT.

1. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal made in accordance to an applicable decision of the U.S. Supreme Court, (119 U.S. 608), WHEN, the facts clearly show, INVASION and SEIZURE of the HOMESTEAD, together with the Personal Possessions contained therein, IN DISTURBANCE OF THE PUBLIC PEACE, by FORCE, ORGANIZED VIOLENCE and TERROR, under "color of law"?

2. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the UNLAWFUL DETAINER STATUTE CHAP. 566, WHEN, the facts clearly show, NO SERVICE in U. D. was made upon PAUL DAN ROSSO and PAULINA ROSSO —

AND, the Complaint in unlawful detainer served upon GORDON EVANSON and MELBA P. EVANSON, did not state a claim, in accordance to the unlawful detainer statute—

AND, the Criminal Court Hearing before Municipal Judge BRUCE C. STONE, did not show the N. W. HOLDING CO., A MINN. CORP., had the right of restitution of the premises —

AND, the Court failed to make findings, as required by the Court Rules and adjudicated cases,

AND, the four defendants each asserted PEACEABLE POSSESSION AND ABSOLUTE HOMESTEAD RIGHTS —

AND, the Judge did not issue the writ of restitution, as required by Statute, but instead, the writ was issued by a deputy clerk of Court?

3. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the LANDLORD-TENANT STATUTE CHAP. 504, and 566,

(THREE CONSOLIDATED CASES in Unlawful Detainer - breach of contract to pay rent),

(TWO CONSOLIDATED CASES in Unlawful Entry - failure to vacate after one month's written notice to quit),

WHEN THE FACTS CLEARLY SHOW,

the Homestead-Landlord had the right to restitution of the premises from mere Tenants, who had breached their contract to pay rent, and attorned to a stranger, — AND, WHEN THE FACTS CLEARLY SHOW the Homestead-Landlord had the right to restitution of the premises from mere Trespassers, who had made unlawful entry without force, were served one month's Notice to Quit and continues to hold over, in unlawful possession of the premises?

4. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to M.R.C.P., RULE 65, and F.R.C.P., RULE 65, (CONSOLIDATED CASE), WHEN, the facts clearly show the FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORPORATION, acted in collusion, together with the N. W. HOLDING CO., A MINN. CORP; the TITLE INSURANCE COMPANY OF MINNESOTA; the TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION; the HENNEPIN COUNTY DISTRICT COURT; and the MINNEAPOLIS MUNICIPAL COURT; as well as the HENNEPIN COUNTY REGISTER OF DEEDS OFFICE, T O D E P R I V E the Homestead-Landlord, of the RIGHT OF POSSESSION of the HOMESTEAD PREMISES, from mere Tenants and Trespassers, who had breached their contract to pay rent, and attorned to a stranger, AND, continue to hold over in unlawful possession of the premises?

5. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the TORRENS TITLE STATUTE CH. 508.02, (an interlocked series of transactions in the N.W. Holding Co. unlawful detainer action), WHEN, the facts clearly show that

Bound

PERSONAL SERVICE WAS NEVER MADE UPON defendants PAUL DAN ROSSO, & GORDON L. EVANSON, to vest the Court with JURISDICTION. The SHERIFF'S RETURN, does not contain a statement that defendants could not be found, NOR ANY REASON, why personal service was not made as required by the Court Rules.

AND, the Judges in Hennepin County District Court, acted in concert with several large law firms, the Hennepin County Sheriff, together with Homestead Neighbors and Others, to set up a prescription title, to the Homestead Premises, (Application in Land Registration Case No. 14838, by WILLIAM HOLMES), in derogation of that of the Registered Homestead Owner-Occupant?

6. WOULD THE Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the HOMESTEAD STATUTE, CH. 510, AND, the TORRENS TITLE STATUTE 508, (an interlocked series of transactions in the N.W. Holding Co., unlawful detainer action), WHEN, the facts clearly show, the HOMESTEAD TITLE WAS PROPERLY RECORDED IN THE REGISTER OF DEEDS OFFICE;

WHEN, the facts clearly show, the TAXES were assessed

by the City Assessor, at the HOMESTEAD RATE; the Occupants of the Homestead were the REGISTERED OWNERS, A N D,

a. Personal Service in Land Registration, was made APRIL 5, 1961, upon PAULINA ROSSO and MELBA EVANSON THREE (3) SEPARATE TIMELY ANSWERS were made by CERTIFIED MAIL, to the Land Registration Proceedings, ADDRESSED TO, the Clerk of Henn. Cty. District Court, by the Homestead Occupants, namely, MR. AND MRS. GORDON L. EVANSON; MR. PAUL DAN ROSSO and MRS. PAULINA ROSSO. (See: ENVELOPE #6, Filed : 13 Dec. 1963, U.S. Dis. Ct., Case 4-63 Civ. 457).

b. NO FOLLOW-UP SERVICE, Rule 38.03, filed with Proof of Service, Rule 4.06, was EVER made upon ANY OF THE HOMESTEAD OCCUPANTS, N O R, upon a Neighbor, who made Answer, to VEST THE COURT WITH NECESSARY JURISDICTION.

c. On AUGUST 2, 1961, the Clerk of Court filed Proof of Service, together with an Affidavit of "NO ANSWER

F.R.C.P., RULE 4 (g) RETURN.
THE PERSON SERVING THE PROCESS SHALL MAKE PROOF OF SERVICE THEREOF TO THE COURT PROMPTLY AND IN ANY EVENT WITHIN THE TIME DURING WHICH THE PERSON SERVED MUST RESPOND TO THE PROCESS.

ON AUGUST 8, 1961, DURING NOON HOUR, WITHOUT NOTICE, OR HEARING, JUDGE EARL J. LYONS, SIGNED THE DECREE OF REGISTRATION. THE DECREE WAS ENTERED THE SAME DAY.
84 S.CT. 411 6. Judgment key 17(1). ADEQUATE AND TIMELY NOTICE IS A PREREQUISITE TO A VALID JUDGMENT.

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d. The Torrens Title Statute, clearly states in part, 508.02, "...NO TITLE TO REGISTERED LAND IN DEROGATION OF THAT OF THE REGISTERED OWNER SHALL BE ACQUIRED BY PRESCRIPTION OR BY ADVERSE POSSESSION."

e. The Minn. Constitution, ARTICLE 1, Sec. 12, clearly provides for Property Exemptions, an ABSOLUTE RIGHT for the security, benefit and protection of the people.

f. The HOMESTEAD STATUTE, CH. 510, and the PROPERTY EXEMPT, CH. 550.37, were determined by law, in accordance to the Constitution.

g. The adjudicated cases in Minnesota, clearly support the ABSOLUTE HOMESTEAD RIGHTS.

h. NO NOTICE of ANY HEARING, OR, the entry of the decree in Registration, WAS EVER SERVED upon the Homestead Occupants, RULE 77.04.

7. Would the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to U. S. Amendment 14; 18 USC 1001, 1018, and 1506, and the Unlawful Detainer Statute CH. 566, (an interlocked series of transactions in the N. W. Holding Co. U. D. action) HOLMES v. ROSSO, U.D. Action for the right of possession of the 208 EAST HENNEPIN AVENUE BUILDING, Mpls., W H E N,

facts clearly show, the Complaint did not state a claim as required by the Unlawful Detainer Statute; the Criminal Court hearing before Municipal Judge LUTHER SLETTEN, did not show that WILLIAM HOLMES had the right to restitution of the 208 EAST HENNEPIN AVENUE BUILDING, Mpls., Minn., NO FINDINGS were made, as required by the Court Rules, and the Judge did not issue the writ of restitution, as required by Statute, BUT INSTEAD, the writ was issued by the Deputy Clerk of Court?

8. Would the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to Minn. Statute CH. 550.05, and adjudicated case 6 N.Y. 2d 35, (an interlocked series of transactions in the N.W. Holding Co. U.D. action) LEDWEIN v. PAUL ROSSO, DAN ROSSO, PAULINA ROSSO and WM. HOLMES, W H E N, the facts clearly show:

(a) Execution was returned "UNSATISFIED" in BOTH the LEDWEIN v. ROSSO, and the HOLMES v. ROSSO cases, and is equivalent to being "vacated and set aside",

(b) Additional judicial action is not provided by the plain language of the Statute,

IN THE ADDITIONAL JUDICIAL ACTION, NOT AUTHORIZED :

(a) Personal Service was NEVER made upon PAUL ROSSO and PAULINA ROSSO.

The Sheriff's Return does not contain a statement that PAUL ROSSO and PAULINA ROSSO, could not be found, NOR, ANY REASON WHY, Personal Service was NOT MADE.

(b) ANSWER was made, by Attorney HENRY JOHNSON, representing DAN ROSSO, PAULINA ROSSO, and PAUL ROSSO, a general denial.

(c) WILLIAM HOLMES was a "collusively joined defendant", invoking 28 USC 1359.

(d) NO FOLLOW UP SERVICE was ever made upon ANY OF THE PARTIES, to VEST the Court with JURISDICTION.

(e) WITHOUT ORIGINAL PERSONAL SERVICE (Rule 4) ON PAUL ROSSO and PAULINA ROSSO; WITHOUT FOLLOW-UP SERVICE (Rule 38.02) UPON DAN ROSSO; WITHOUT NOTICE (Rule 5.01); and WITHOUT HEARING; and WITHOUT JURISDICTION, DEFAULT JUDGMENT WAS ENTERED. Henn. Cty. Dis. Ct. Case 547205.

(f) NO COPY OF THE JUDGMENT WAS EVER SERVED, (Rule 77.04).

9. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to a Federal Statute, 18 USC 241 et seq., 42 USC 1981 et seq., U.S. Amendment 5 and 14, MRCP, RULE 28.03, Minnesota Statute CH. 550.05, (an interlocked series of transactions in the N.W. Holding Co., unlawful detainer action) LEDWEIN v. ROSSO, WHEN, the facts clearly show, Judge ROLF FOSSEEN did not have JURISDICTION, because EXECUTIONS were returned UNSATISFIED, AND ALSO, the Court Rules PROHIBIT the taking of depositions before an employee of Plaintiff LEDWEIN'S attorney, SAMUEL SALITERMAN?

10. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to Federal Statute 18 USC 1001, 1018, and 1506, and the FALSE STATEMENT IN ADVERTISING STATUTE CH. 620.52; and the Minneapolis CITY ORDINANCE SEC. 1; 1-501, Type 4 and Type 5, (an interlocked series of transactions in the N.W. Holding Co. action) HOLMES v. ROSSO, Specific Performance Suit, W H E N, the facts clearly show the advertisement was false, the building

ound

was of wood construction, not masonry, AND, in a dated JUNE 24, 1958, ORDER, Judge PAUL S. CARROLL stated, "....all things denied, Stay 10 Days" — a FINAL ORDER, that had not been vacated, set aside or appealed from? 3 FRD 289. 18 USC 1506.

(The County Attorney GEORGE SCOTT; the Real Estate Licensing Board ELMER BORGSCHATZ, the Board's Attorney GEORGE J. CROWE, and the Assistant Attorney General HAROLD J. SODERBERG, would NOT prosecute, when they were personally presented with the above facts, and told that Minn. Statutes CH. 620.48, FALSE REPRESENTATION AS TO OWNERSHIP OF LAND AND EXECUTION OF DEED THERETO, was violated, AND, these unlawful acts were performed in concert for the purpose to deprive PAUL ROSSO of the Constitutional Rights, privileges and immunities.

11. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the GARNISHMENT STATUTE CH. 571.43(1), and the ATTACHMENT STATUTE CH. 570.01 (an interlocked series of

transactions in the N.W. Holding Co. U.D. action) LEDWEIN vs. ROSSO, WHEN, the law clearly shows, an attachment would not be allowed in an assault and battery case?

12. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the M.R.C.P., RULE 52, and adjudicated cases, (42 MINN. 45 An Order for Judgment WITHOUT FINDINGS CANNOT STAND) (an interlocked series of transactions in the N.W. Hol ing Co. unlawful detainer action) LEDWEIN v. ROSSO, WHEN, the facts clearly show JUDGE PAUL J. JAROSCAK, did not make findings as required by the Minnesota Rules and adjudicated cases?

13. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the FEDERAL and STATE CIVIL RIGHTS STATUTES, WHEN, the facts clearly show an INTERLOCKED SERIES OF TRANSACTIO under "color of law", to deprive PETITIONERS of rights, privileges and immunities, secured by the Constitution and laws of the United States? 42 USC 1983 28 USC 1

14. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the SALE OF REALTY GENERALLY, WHEN, the facts clearly show, neither STATE nor FEDERAL LAW was observed? 28 USC 2001.

15. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the SALE OF PERSONALTY GENERALLY, WHEN, the facts clearly show, neither STATE nor FEDERAL LAW was observed?

16. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the POSTAL STATUTES, WHEN, the facts clearly show, the United States Mails were used to promote a scheme to deprive PETITIONERS of money, rents, real and personal property? U.S. v. Hughes, 195 F.Supp 795 (D.C.NY 1961).

17. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the JUDICIAL RECORDS STATUTES, WHEN, the facts clearly show, the records were FORGED to promote a scheme to deprive PETITIONERS of money, rents, real and personal property? 18 USC 1506.

18. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to RIGHTS OF ACCUSED TO KNOW GROUND OF ARREST, CH. 611, and U.S. Amendment 14, WHEN, the facts clearly show PAUL DAN ROSSO was held in Henn. County JAIL, for ten (10) DAYS, WITHOUT a WARRANT FOR ARREST, or a COMMITMENT ORDER. (A willful failure to answer interrogatories before an employee of Plaintiff's attorney). (RULE 28.03).

82 S.Ct. 134(1962) WHERE AN ALLEGED CONTEMPT OF COURT WAS NOT OF THE KIND THAT HAD TO BE PUNISHED IMMEDIATELY TO PREVENT DEMORALIZATION OF THE COURT'S AUTHORITY, HIS CONVICTION BY A STATE COURT WITHOUT A HEARING AND AN OPPORTUNITY TO PRESENT AN AVAILABLE DEFENSE VIOLATED DUE PROCESS OF LAW.

The Court in fact and law, did NOT have jurisdiction over the person of PAUL DAN ROSSO, because execution had been returned UNSATISFIED, and the plain language of the Statute does not provide for further proceedings. M.S. CH. 550.05.

The Court ignored a timely Affidavit, together with Proof of Personal Service, OBJECTING to the proceedings.

N O T E

THE MINNESOTA SUPREME COURT HAS NOT RULED ON ANY OF THE ISSUES PRESENTED FOR AFFIRMATIVE EQUITABLE RELIEF.

NO MATERIAL FACTS ARE IN DISPUTE, BECAUSE NO ANSWER WAS MADE IN THE MINNESOTA SUPREME COUPT, AND THE ACTION WAS TIMELY REMOVED TO THE U.S. DISTRICT COURT, IN ACCORDANCE TO STATUTE.

THE FEDERAL COURT BECAME POSSESSED OF THE QUESTIONS PRESENTED IN THE CONSOLIDATED AND INTERLOCKED SERIES OF TRANSACTIONS.

Bound

II. IN U. S. DISTRICT COURT.

1. WOULD the U. S. District Court be authorized to dismiss a timely Petition, made in accordance to the REMOVAL STATUTE, W H E N, the motion to dismiss, contained only bare bones pleadings, AND, service of a summons and complaint in unlawful detainer, was NEVER made upon defendants PAUL ROSSO and PAULINA ROSSO, to vest the Municipal Criminal Court with JURISDICTION - a statutory prerequisite?

2. Would the U. S. District Court be authorized to dismiss a timely Petition, made in accordance to the CIVIL RIGHTS ACT, W H E N, the motion to dismiss, contained only bare bones pleadings, AND, the Complaint served upon MELBA P. EVANSON and GORDON EVANSON, did not state a claim as required by the UNLAWFUL DETAINER STATUTE; NO EVIDENCE was introduced at the "Criminal Trial before Municipal JUDGE BRUCE C. STONE", to show the N. W. HOLDING CO., A MINN. COPP. had the right of restitution of the premises, AND, WITHOUT Findings by the Municipal Criminal

Court, to show N. W. HOLDING CO., was entitled to restitution of the premises, as required by the unlawful detainer statute, and adjudicated cases.

3. Would the U. S. District Court be authorized to dismiss a timely Petition, made in accordance to the CIVIL CONSPIRACY STATUTE, when the motion to dismiss, contained only bare bones pleadings, and the Petition SHOWS the Complaint in Unlawful Detainer, was one of an interlocked series of transactions, used to obtain money (mortgage) from the TWIN CITY FEDERAL SAVINGS AND LOAN ASSN., Mpls., under the "pale" of court orders, judgments, sheriff levys, sheriff executions, sheriff sales, abstracts, and attorney opinion, "secured" by a "title" insured by the TITLE INSURANCE COMPANY OF MINNEAPOLIS, MINN. (The "title" referred to, legally describes the PETITIONERS' HOMESTEAD PREMISES).

4. Would the U. S. District Court be authorized to dismiss a timely Petition made in accordance to the JUDICIAL SALES STATUTE, W H E N, the

Bound

motion to dismiss contained only bare bones pleadings, AND, the "judicial sale" was not in accordance to the Minn. Constitution, and State and Federal Statutes.

5. Would the U. S. District Court be authorised to dismiss a timely Petition, made in accordance to the POSTAL STATUTES, W H E N, the motion to dismiss contained only bare bones pleadings, AND, the letters contained threats to extort money, rentals, real and personal property.

6. Would the U. S. District Court be authorised to dismiss a timely Petition made in accordance to a FEDERALLY RECOGNIZED RIGHT OF PEACEABLE POSSESSION OF THE PREMISES, W H E N, the motion to dismiss contained only bare bones pleadings, AND, the Homestead premises were INVADED, in DISTURBANCE OF THE PUBLIC PEACE, A N D, taken by FORCE, ORGANIZED VIOLENCE and TERROR, under the "color of law", together with the EXEMPT PERSONAL PROPEPTY contained therein.

7. Would the U. S. District Court be authorized to dismiss a timely Petition UNDER CRIMINAL RULE 35, to correct an illegal sentence at any time, W H E N, the motion to dismiss contained only bare bones pleadings, AND, the "conviction of unlawful detainer was without evidence or facts adduced", and not in accordance to the due process clause of the State and Federal Constitutions.

8. Would the U. S. District Court be authorized to dismiss TIMELY APPLICATIONS FOR DEFAULT JUDGMENT, for the WILFUL REFUSAL TO ANSWER INTERROGATORIES, W H E N, no facts were adduced to show the several parties were not competent or able to make answer.

9. Would the U. S. District Court be authorized to dismiss a timely MOTION UNDER RULE 60(b)(4), the judgment is void, W H E N, no response or objections were made by opposing parties, AND, no findings were made as required by the Court Rules.

10. Would the U. S. District Court be authorized to dismiss a TIMELY MOTION made in accordance

to STATUTE 28 USC 2255, a collateral attack upon a judgment of conviction by a court without jurisdiction, without evidence, without findings, W H E N, no responsive pleadings or objections were made to show the conviction of unlawful detainer was in accordance to law.

11. Would the U. S. District Court be authorized to dismiss a timely motion made in accordance to the COMMON LAW, CORIAM NOBIS, W H E N, the FACTS clearly show that the RIGHT OF POSSESSION has not terminated, AND, NO responsive pleadings or objections were made, to SHOW the conviction of unlawful detainer was in accordance to law.

12. Would the U. S. District Court be authorized to ignore and dismiss a timely motion, made in accordance to the COMMON LAW - ARREST OF JUDGMENT, W H E N, the FACTS clearly show the orders of dismissal, were not authorized by law, AND, N O RESPONSIVE PLEADINGS OR OBJECTIONS were made by opposing counsel, to SHOW the dismissals were in accordance to law.

N O T E

The U. S. District Court, upon the dismissal of the PETITION, CANNOT enter judgment of affirmance, and include therein, the supposed judgment of the State Court in a case WHERE NO RETURN HAS BEEN MADE IN THE STATE COURT SHOWING SERVICE UPON DEFENDANTS PAUL ROSSO AND PAULINA ROSSO.

NO FACTS were alleged to show unlawful detainer of the premises,

NO PROOF was adduced at the "hearing", to show unlawful detainer of the premises,

NO FINDINGS were made to show unlawful detainer of the premises.

The dated JUNE 21, 1963, O P I N I O N, by the Minnesota Supreme Court, reported at 265 MINN. 562, Northwest Holding Co., vs. Evenson et al,

> "Appeal to the Supreme Court from the Municipal Court of the City of Minneapolis in unlawful detainer proceedings lie only from the judgment of restitution...appeal dismissed",

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- - - IS IN DIRECT CONFLICT - - -

WITH STATE AND FEDERAL LAWS, A N D,

Minn. St. Ch. 566, 510 and 550.05,
M.R.C.P. RULE 1,
28 USC 2001,

THE STATE AND FEDERAL CONSTITUTION,

Minn. Const. ARTICLE 1, SEC. 1, 2, 8, 10, and 12,
U. S. Constitution, ARTICLE IV, SEC. 2 and 4,
ARTICLE VI, and
Amendments 4, 5, 7, and 14, A N D,

THE COMMON LAW,

See Common Law citations in 27 ARK. 46, and 27 ARK. 51.

B E C A U S E

CRIMINAL COURT JUDGES: BRUCE C. STONE,
LINDSAY G. ARTHUR, and
DONALD C. BAPTEAU,

DID NOT ENTER, "the judgment of restitution", as required by the Minnesota Statutes, and the Minneapolis Municipal Court Rules, Adjudicated cause and the COMMON LAW.

—— THE FACTS SHOW ——

The Deputy Clerk of Municipal Court, NOT AUTHORIZED by any Statute, or Court, Rule, WITHOUT JURISDICTION, prepared and signed "the judgment of restitution", VOID UPON ITS FACE, that did not show whether the cause of action was:

UNLAWFUL ENTRY, or UNLAWFUL DETAINER,

before the Court of Inquiry,

DID NOT CONTAIN F I N D I N G S, that defendants (EVANSONS-ROSSOS) had held over after the rental contract was terminated, by a "notice to quit", OR, had breached their contract to pay rent, OR, had made unlawful entry and held over after a 30 day Notice to quit, NECESSARY PREREQUISITES, to obtain the RIGHT OF POSSESSION, T O G E T H E R W I T H, the Judge's SIGNATURE.

THE U. S. DISTRICT COURT HAS THE DUTY TO MAKE INQUIRY INTO JURISDICTIONAL QUESTIONS FACTUALLY TO FIND THE TRUTH, WHEN FEDERAL QUESTIONS ARE RAISED, AND IF NECESSARY, THE COURT HAS THE DUTY TO ORDER AMENDMENT OF PLEADINGS TO SHOW JURISDICTION (28 US 1653) IN ORDER TO GRANT REAL, COMPLETE AND LASTING RELIEF.

Bound

THE U. S. DISTRICT COURT HAS NOT RULED ON ANY OF THE ISSUES PRESENTED FOR AFFIRMATIVE EQUITABLE RELIEF.

NO MATERIAL FACTS ARE IN DISPUTE, BECAUSE NO ANSWER WAS MADE IN EITHER THE MINNESOTA SUPREME COURT, OR, IN THE U. S. DISTRICT COURT, AND THE ACTION WAS TIMELY APPEALED TO THE U. S. COURT OF APPEALS, EIGHTH CIRCUIT, IN ACCORDANCE TO STATUTE.

293 US 52, 54; 55 Sup. Ct. 16 (1936) 125 US 18; 8 S.Ct. 741 (1888)

IT IS ESSENTIAL TO THE JURISDICTION OF THIS COURT IN REVIEWING A DECISION OF A COURT OF A STATE THAT IT MUST APPEAR AFFIRMATIVELY FROM THE RECORD, NOT ONLY THAT A FEDERAL QUESTION WAS PRESENTED FOR DECISION TO THE HIGHEST COURT OF THE STATE HAVING JURISDICTION, BUT THAT ITS DECISION OF THE FEDERAL QUESTION WAS NECESSARY TO DETERMINATION OF THE CAUSE, AND THAT IT WAS ACTUALLY DECIDED OR THAT THE JUDGMENT AS RENDERED COULD NOT HAVE BEEN GIVEN WITHOUT DECIDING IT.

III. IN EIGHTH CIRCUIT COURT OF APPEALS.

1. WOULD the U. S. Court of APPEALS be authorized to sanction such a DEPARTURE by the U.S. District Court, FROM the accepted and usual course of judicial proceedings, to IGNORE the several jurisdictional grounds to adjudicate upon the merits, and FAIL to render the necessary, complete, and lasting relief?

2. WOULD the U.S. Court of APPEALS be authorized to render a decision in DIRECT CONFLICT with a decision by the U.S. SUPREME COURT, 96 L.Ed 232, U.S. v. Hayman, and DENY PETITIONERS' timely Application for WRIT OF MANDAMUS: to require the CLERK of U.S. District Court to FILE timely COMMON LAW Pleadings, in accordance to the Court Rules, and require the Chief Judge to HEAR the matter in accordance to Statute, and his Oath of Office?

3. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U.S. SUPREME COURT, on the SAME QUESTION — RIGHT OF PEACEABLE POSSESSION OF THE PREMISES?

119 US 608; Aff'd. and applied 122 US 597.
Iron Mountain R.R. v. Johnson.

4. WOULD the U. S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U.S. SUPREME COURT, on the SAME QUESTION — "Proof of Service", — The Officer's Return (U.D. #33944), shows PAUL ROSSO "Not Found", and PAULINA ROSSO, "Not Found".

Settlemier v. Sullivan
97 Sup. Ct. 444 (1878) HELD,

1. That the court by such service, acquired no jurisdiction over the person of A., and its judgment was void.

5. WOULD the U. S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U. S. Supreme Court, or U. S. Court of Appeals, on the SAME QUESTION - "JURISDICTION", of the Federal Courts, WHEN THE PETITION RAISED SUBSTANTIAL FEDERAL QUESTIONS?

A. UNDER THE REMOVAL STATUTE. 28 USC 1446.

11 L. Ed 2d 440 England v. Louisiana Board of Medical Examiners et al

B. UNDER THE CIVIL RIGHTS ACT. 42 USC 1983.

373 US 668, 83 S.Ct. 1433 (1963) McNeese v. Board of Education.

C. UNDER THE JUDICIAL SALES STATUTE. 28 USC 2001.

257 U.S. 10 at 19; 42 S.Ct. 27 at 29; 66 L.Ed. 104 (1921). Yazoo & M.V.R. Co. v. Clarksdale.

D. UNDER THE FEDERAL QUESTION, AMOUNT IN CONTROVERSY. 28 USC 1331.

239 F Supp. 106 (1964) Courts Key 299(3) Spiesel v. City of New York.

E. UNDER THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

238 F. Supp. 937 at 944 (1965) Tyson v. Cazes.

F. UNDER THE DOCTRINE OF PENDENT JURISDICTION.

377 U.S. 426 (1964) J. I. Case v. Borak

G. UNDER THE MAIL FRAUD STATUTE. 18 USC 1341.

229 F 2d 861 Cert. denied 76 S.Ct. 546, reh. den. 76 S.CT 844. Palmer v. U. S.

H. UNDER CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS. 18 USC 286, 287, and 371.

263 US 15 U. S. v. Walters.

Bound

I. UNDER STATEMENTS OR ENTRIES GENERALLY. 18 USC 1001, 1002, 1005, 1006, 1008, 1018, and 1021.

248 F 2d 439 (CA Mo. 1957) Ebeling v. U. S.

J. UNDER THEFT OR ALTERATION OF RECORD OR PROCESS... 18 USC 1506

3 FRD 289 U.S. ex rel Coats v. St. Louis Clay Products.

6. WOULD the Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the SAME Court of Appeals, on the SAME QUESTION — LANDLORD AND TENANT KEY 63(3), 68,

RIGHT OF POSSESSION OF THE PREMISES FROM MERE TENANTS WHO HAVE BREACHED THEIR RENTAL AGREEMENT, AND ATTORNED TO A STRANGER,

AND,

RIGHT OF POSSESSION OF THE PREMISES FROM MERE TRESPASSERS, AFTER ONE MONTH'S NOTICE TO QUIT?

204 F 2d 238 CA 8, Affirmed 98 F.S. 730(1953). Kimble v. Willey.

6. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the SAME COURT, on the SAME QUESTION,

"JUDGMENT KEY 828 (3.20)

FEDERAL DISTRICT COURT WAS NEITHER REQUIRED NOR ENTITLED TO GIVE FULL FAITH AND CREDIT TO STATE COURT DECREE IF IT WAS CONSTITUTIONALLY VOID," 328 F 2d 296 (1964 CA 8) Dickie v. Sewer Improvement District.

7. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the SAME COURT, on the SAME QUESTION — "parties given thirty days to amend jurisdictional allegations; if not amended case to be remanded to district court with directions that it be dismissed for want of jurisdiction"? 228 F 2d 699 (CA 8) Kern v. Standard Oil Company.

8. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision of the Fifth Circuit Court of Appeals, on the SAME QUESTION —

"....the amount in controversy exceeds the statutory amount and is not traversed, such allegation is deemed sufficient to confer jurisdiction unless it appears to a legal certainty that the other allegations of the complaint so qualify or distract from it that

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it cannot fairly be said that jurisdiction appears on the face of the complaint".
238 F 2d 689 (CA 5) Hayward v. Public Housing Adm.
Also see: 303 US 283, 289; 58 S.CT. 586;
62 L.Ed. 843 St. Paul Indemnity v.
Red Cab Co.

9. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the Second Court of Appeals, on the SAME QUESTION, FEDERAL CIVIL PROCEDURE KEY 347 (2), 351½.

"RULES OF CIVIL PROCEDURE REQUIRE THAT PLEADINGS BE CONSTRUED FAVORABLY. THE COURT EVEN BEING OBLIGATED TO STRETCH AND PICK TO FIND ANY CONCEIVABLE CLAIM WHICH MAY HAVE BEEN ALLEGED".

139 F. 2d 774 (1944 CA 2). Dioguardi v. Durning, Collector of Customs Port of N.Y.

10. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U. S. SUPREME COURT, on the SAME QUESTION —

"FEDERAL CIVIL PROCEDURE KEY 1773, COMPLAINT SHOULD NOT BE DISMISSED FOR FAILURE TO STATE A CLAIM UNLESS IT APPEARS BEYOND DOUBT THAT PLAINTIFF, IN SUPPORT OF HIS CLAIM, CAN PROVE NO SET OF FACTS WHICH WOULD ENTITLE HIM TO RELIEF. 2 L.Ed 2d 80 (1957) Conley v. Gibson.

11. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U.S. SUPREME COURT, on the SAME QUESTION — "CONSTITUTIONAL LAW SEC. 314, STATE ACTION FOR A PARTICULAR CHARACTER". 10 L.Ed 2d 323 (1963) Peterson v. Greenville

1. PRIVATE CONDUCT ABRIDGING INDIVIDUAL RIGHTS DOES NO VIOLENCE TO THE EQUAL PROTECTION CLAUSE UNLESS TO SOME SIGNIFICANT EXTENT THE STATE IN ANY OF ITS MANIFESTATIONS HAS BEEN FOUND TO HAVE BECOME INVOLVED IN IT.

12. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the Seventh Circuit Court of Appeals, on the SAME QUESTION — "...failure to make findings with respect to plaintiff's complaint, REQUIRED reversal as to judgment of dismissal..." WHEN NO FINDINGS were made that the Court did not have VENUE jurisdiction, NOR, were findings made that the Court did not have ORIGINAL jurisdiction by the Removal Statute, NOR, did the ORDER OF DISMISSAL find that said Petition did not state any claim in which any

relief could be granted against the Defendant, NOR, did the Court remand the case before final judgment as improvidently and without jurisdiction, NOR, did the Court affirm the judgment of the State Court, and assess costs, together with the State Costs?

313 F. 2d 864 (CA Ill. 1963) Cert. denied 84 S.Ct. 59 Harris Truck Lines v. Cherry Meat Packers.

13. The U. S. Court of APPEALS, cited a part of the Minnesota Supreme Court OPINION, as a VALID OPINION.

> "Nevertheless, by levying execution and securing a decree of registration, William Holmes has obtained real estate worth approximately $35,000 to satisfy claims amounting to less than one-fourth of that amount."

— NOTE —

A DATED JANUARY 3, 1967 JUDGMENT SEARCH REVEALS :

The CLAIMS OF WILLIAM HOLMES ARE NOT YET SATISFIED.

SEE: DATED JANUARY 3, 1967 CERTIFICATE ON JUDGMENT LIEN DOCKETS, PREPARED BY TITLE INSURANCE COMPANY OF MINNESOTA, ON PAGE 35.

SEE: DATED JUNE 24, 1958 ORDER No. 533990, Judge PAUL S. CARROLL, ON PAGE 36.

When Appellants (PETITIONERS here), were in the Minn. Supreme Court seeking a REHEARING OF THE CONSOLIDATED CASES ON THE MERITS, PAUL DAN ROSSO, pointed out to Chief Judge OSCAR KNUTSON, that WILLIAM HOLMES' CLAIMS were NOT YET SATISFIED, as his Per Curiam OPINION, stated.

Chief Judge KNUTSON remained silent.

PAUL DAN ROSSO then asked Chief Judge KNUTSON, WOULD THIS MEAN, that William HOLMES will now have a "Land Registration Proceeding", describing the property at 208 EAST HENNEPIN AVENUE, Minneapolis, and THEN TAKE POSSESSION, as was done of OUR HOMESTEAD

CHIEF JUDGE OSCAR KNUTSON remained SILENT.

W O U L D, the U.S. Court of APPEALS be authorised to render a decision in DIRECT CONFLICT with the FACT that the JUDGMENT LIEN DOCKET clearly SHOWS the CLAIMS of WILLIAM HOLMES are NOT YET SATISFIED, A N D, W O U L D, the U.S. Court of APPEALS WHOLEHEARTEDLY S U P P O R T WILLIAM HOLMES when, ON OR BEFORE FEBRUARY 14, 1968, OR, ON OR BEFORE JUNE 11, 1969, Land Registration Proceedings, describing the property at 208 E. HENNEPIN AVE., Minneapolis, are instituted t "SATISFY MANIFESTLY VALID JUDGMENTS" ?

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Title Insurance Company of Minnesota
Minneapolis 1, Minnesota

CERTIFICATE ON JUDGMENT LIEN DOCKETS

THIS CERTIFIES that we have searched and examined the Judgment Lien Dockets in the following named Courts:

District Court, Fourth Judicial District, Hennepin County, Minn.

United States District Court, District of Minnesota, Fourth Division.

We find no unsatisfied judgments appearing therein against the names hereon, between the dates set opposite the respective names, except as shown hereon.

(Note: Where any name appears hereon with a middle initial, no search is made as to any names having middle initials different from that shown hereon.)

NAMES	DATES
Dan Rosso	Jan. 2, 1957 -Jan.3, 1967, 7AM
Paul Dan Rosso	Jan. 2, 1957 Jan.3, 1967, 7AM
Paulina M. Rosso	Jan. 2, 1957 Jan.3, 1967, 7AM
Melba P. Evanson	Jan. 2, 1957 Jan.3, 1967, 7AM
Mrs. Gordon L. Evanson	Jan. 2, 1957 Jan.3, 1967, 7AM
Gordon L. Evanson	Jan. 2, 1957 Jan.3, 1967, 7AM

—Except as follows: —

—District Court, Fourth Judicial District—

William Holmes vs Paul Rosso 2326 -Central Ave.N.E.	Judgment $1,280.00 Dated Feb. 14, 1958 Docketed Feb. 14, 1958 Case No. 533990 McNulty & Cox, Attnys.
William Holmes vs Paul Rosso 2326 -Central Ave.N.E.	Judgment $3,049.75 Dated June 11, 1959 Docketed June 11, 1959 Case No. 533990 Charles A. Cox, Atty.

(Partially satisfied in the sum of $2,489.65 on October 16, 1959)

Dated at Minneapolis, this 3rd day of January 1967
Fee $6.00 TITLE INSURANCE COMPANY OF MINNESOTA
By /s/ L.M. Kipke Asst. Secretary

T IS POOR

STATE OF MINNESOTA — DISTRICT COURT
COUNTY OF HENNEPIN — FOURTH JUDICIAL DISTRICT

William Holmes,
Plaintiff,

vs. No. 533990

Paul Rosso, ORDER
Defendant.

The above entitled cause, being on the Special Term Calendar of this Court, came on for hearing before the undersigned on the 24th day of June 1958, a motion by the plaintiff for summary judgment; Plaintiff was represented by McNulty & Cox by Charles A. Cox, Esq., and defendant was represented by Edward P. Dietrich, Esq.

After hearing the arguments of counsel and being fully advised in the matter, it is

ORDERED that said motion be and the same hereby is in all things denied.

Stay 10 days
Dated June 24 1958.

BY THE COURT:

s/ Paul S. Carroll
Judge of the District Court

MEMORANDUM

As in all these cases there is a great deal of merit to the plaintiff's contention that he's entitle to a summary judgment, but since the Sauter vs Sauter case, 70 NW 2d 353 there has been a succession of reversals where judges have granted summary judgment. It is better for the parties to get their cases tried than to involve themselves in the extra expense of futile proceedings.

NOTE: This ORDER has not been appealed from, or set aside or vacated. SEE: 18 USC 1506.

MRCP. RULE 56.04 "If,...judgment is not rendered upon the whole case...the court at the hearing of the motion,...shall thereupon make an order...directing such further proceedings in the action as are just."

JUDICIAL NOTICE: The Judgment "ORDERED that said motion be and the same hereby is in all things denied."

The COURT DID NOT make an order directing such further proceedings. The dated JUNE 24, 1958 ORDER was a FINAL ORDER. NO APPEAL WAS TAKEN.

14. WOULD the U.S. Court of APPEALS be authorized to render an ORDER, dated MARCH 2, 1966, which states: "...It is further ordered that appellants may, notwithstanding the provisions of our Rules regarding the printing of briefs, file five typewritten copies of their brief with this Court and serve one additional typewritten copy of their brief on counsel for appellee."

IT SHOULD BE NOTED: ATTORNEY ARNOLD I. FEINBERG, signed the Complaint in Unlawful Detainer, and the attached AFFIDAVIT; appeared on Hearing Day, 26 SEPTEMBER 1961, in Mpls. Criminal Court; and CLAIMED the right of possession of Homestead Property. ATTNY. FEINBERG, representing N.W. HOLDING CO., the TORRENS TITLE OWNER, appeared on Hearing Day, 21 NOV. 1961, in Mpls. Criminal Court, in EVANSON-LANDLORD vs. MADY, TENANT, WITHOUT a timely application to Intervene; WITHOUT an Answer; over the OBJECTION of MELBA P. EVANSON; and obtained DISMISSAL, WITHOUT A HEARING, from Judge DONALD T.BARBEAU.

IT SHOULD ALSO BE NOTED:

ATTORNEY ARNOLD I. FEINBERG, appeared in the Minnesota Supreme Court APPLICATION FOR EXTRAORDINARY RELIEF, Case No. 38634, a PETITION FOR SPECIAL RELIEF, Hearing Day DECEMBER 7, 1961; made RESPONSE, accompanied by an AFFIDAVIT, and obtained DISMISSAL of the Application, WITHOUT A HEARING BY THE MINNESOTA SUPREME COURT.

ATTORNEY ARNOLD I. FEINBERG, appeared in the Minnesota Supreme Court APPEAL, and made a MOTION FOR DISMISSAL. This motion was denied.

NO ANSWER WAS MADE BY N. W. HOLDING COMPANY.

On Hearing Day, DECEMBER 6, 1962, NO PRINCIPAL DEFENDANTS APPEARED TO REPRESENT A N Y OF THE PARTIES IN THE CONSOLIDATED CASES.

ATTORNEY ARNOLD I. FEINBERG, together with several Attorneys, appeared in the Minnesota Supreme Court, on Hearing Day, DECEMBER 6, 1962, and ORALLY ALLEGED for the F I R S T TIME, that PAUL DAN ROSSO did NOT live at the HOMESTEAD. Justice JAMES OTIS then asked PAUL ROSSO if he (Rosso)

lived at the 2326 CENTRAL AVENUE address, and PAUL ROSSO answered, "Since 1919, continuously and uninterrupted".

Attorneys MAURICE GROSSMAN, GEORGE M. KODADEK, and FRANK M. FUDALI, all declined to make oral arguments in Supreme Court, after Chief Justice OSCAR R. KNUTSON asked them, "Do any of you have anything to say for yourselves?"

265 MINN. 562, 565 N.W. Holding Co., v. Evanson et al. "THE PARTIES WERE PHYSICALLY EVICTED ON NOVEMBER 30, 1961. THEY HAVE SUBSEQUENTLY INSTITUTED UNSUCCESSFULLY NUMEROUS UNLAWFUL DETAINER PROCEEDINGS ON THEIR OWN BEHALF AGAINST TENANTS IN POSSESSION."

N O T E :

THE MINNESOTA SUPREME COURT DID TAKE JUDICIAL NOTICE OF THE FACTS - POSSESSION OF THE HOMESTEAD PREMISES WAS OBTAINED BY FORCE, A N D,

THE CONSOLIDATED U. D. CASES INSTITUTED BY THE HOMESTEAD-LANDLORD AGAINST TENANTS IN POSSESSION UNDER THE HOMESTEAD-LANDLORD'S TITLE.

ATTORNEY ARNOLD I. FEINBERG, appeared in the U. S. DISTRICT COURT OF MINNESOTA, representing N. W. HOLDING COMPANY, and made MOTION FOR DISMISSAL, accompanied by an AFFIDAVIT, and on Hearing Day, JANUARY 13, 1964, argued for DISMISSAL.

NO PRINCIPAL DEFENDANTS APPEARED TO REPRESENT A N Y OF THE PARTIES IN THE CONSOLIDATED CASES.

Dismissal was granted, EVEN THOUGH, a timely Application for SUMMARY JUDGMENT was before the Court on HEARING DAY, against PRESIDENT of N. W. HOLDING COMPANY, MR. ISRAEL MIRVISS, FOR THE FAILURE TO ANSWER INTERROGATORIES, AND,
A timely Application for SUMMARY JUDGMENT was before the Court on HEARING DAY, against the NORTHWEST HOLDING COMPANY, THEIR ATTORNEYS AND AGENTS, THE MOHAWK TRANSFER AND STORAGE COMPANY, THE MINNEAPOLIS POLICE, TOGETHER WITH OTHERS.

The FILES of the U. S. DISTRICT COURT, DO NOT contain an Application by ATTORNEY ARNOLD I. FEINBERG, to WITHDRAW AS COUNSEL for N. W. HOLDING COMPANY, A Minn. CORPORATION.

The FILES of the U.S. Court of APPEALS, DO NOT contain an APPEARANCE FORM for APPELLEE, NORTHWEST HOLDING CO., NOR, an Application by Attorney ARNOLD I. FEINBERG, to WITHDRAW AS COUNSEL FOR APPELLE N. W. HOLDING CO., A MINN. CORPORATION.

QUESTION : MAY ATTORNEY ARNOLD I. FEINBERG, by his OMISSION or NEGLECT, or REFUSAL, or simple FAILURE TO FILE, an "APPEARANCE FORM", in the U.S. Court of APPEALS, W I T H D R A W as Counsel for Appellee, N. W. HOLDING COMPANY ?

84 S. CT. 40 (1963) Retail Clerks International Assoc., Local 1625, AFL-CIO, et al v. Schermerhorn et al.

THE MOTION OF CLAUDE PEPPER FOR LEAVE TO WITHDRAW HIS APPEARANCE AS COUNSEL FOR THE PETITIONERS IS GRANTED.

QUESTION : MAY the U.S. Court of APPEALS then, WITHOUT a signed APPEARANCE FORM for Appellee, N. W. HOLDING COMPANY, WITHOUT NOTICE to the PETITIONERS, I N S E R T the name of "JOE WALTERS" Minneapolis Minn., for APPELLEE, in the FEDERAL REPORTS ?

QUESTION : DID the U.S. Court of APPEALS, APPOINT "JOE WALTERS", to represent Appellee, N. W. Holding Company, WITHOUT A WRITTEN ORDER, AND WITHOUT NOTICE TO PETITIONERS ?

QUESTION : WHAT SERVICES did "JOE WALTERS" perform for Appellee, N. W. Holding Co., and the Interlocked and CONSOLIDATED CASES, in the U. S. Court of APPEALS ? AND ON WHAT DATE DID THESE SERVICES BEGIN ?

15. WOULD the U. S. Court of APPEALS, C O R R E C T E R R O R S of the U. S. DISTRICT COURT, reachable by a timely APPEAL, that clearly shows :

84 S. CT. 21 (1963) Bartone v. U. S.

"WHERE STATE PROCEDURAL SNARLS OR OBSTACLES PRECLUDE AN EFFECTIVE STATE REMEDY AGAINST UNCONSTITUTIONAL CONVICTIONS, FEDERAL COURTS HAVE NO OTHER CHOICE BUT TO GRANT RELIEF IN THE COLLATERAL PROCEEDING".

216 F 2d 743 (CA 3)(1954) U.S. v. McCorkle.

EXAMINATION BY FEDERAL DISTRICT COURT OF "OPINION" OF STATE SUPREME COURT AFFIRMING CONVICTION FOR MURDER DID NOT CONSTITUTE AN EXAMINATION OF THE "RECORD".

82 S.CT. 917, 923 Coppedge v. United States

"WHEN SOCIETY ACTS TO DEPRIVE ONE OF ITS MEMBERS OF HIS LIFE, LIBERTY OR PROPERTY, IT TAKES ITS MOST AWESOME STEPS. NO GENERAL RESPECT FOR, NOR ADHERENCE TO, THE LAW AS A WHOLE CAN WELL BE EXPECTED WITHOUT JUDICIAL RECOGNITION OF THE PARAMOUNT NEED FOR PROMPT, EMINENTLY FAIR AND SOBER CRIMINAL LAW PROCEDURES. THE METHODS WE EMPLOY IN THE ENFORCEMENT OF OUR CRIMINAL LAW HAVE APTLY BEEN CALLED THE MEASURES BY WHICH THE QUALITY OF OUR CIVILIZATION MAY BE JUDGED."

ly Bound

The dated SEPTEMBER 26, 1961, ORDER by Judge BRUCE C. STONE, "Stay 5 days", in the Mpls. Criminal Court, is in DIRECT CONFLICT with STATE and FEDERAL LAWS, the State and Federal Constitutions, and the COMMON LAW —

—— W H E N ——

THE SHERIFF'S RETURN SHOWS PAUL ROSSO "NOT FOUND; and PAULINA ROSSO "NOT FOUND";

THE SUMMONS IN UNLAWFUL DETAINER, SERVED UPON GORDON EVANSON and MELBA P. EVANSON, WAS NOT SIGNED BY A JUDGE, AS REQUIRED BY STATUTE 566.05,

THE HOMESTEAD OWNERS WERE IN QUIET, EXCLUSIVE, NOTORIOUS, POSSESSION, CONTINUOUSLY AND UNINTERRUPTEDLY FOR FORTY-TWO (42) YEARS, M.S. CH. 566.04,

THE COMPLAINT IN U. D., DID NOT STATE A CLAIM IN ACCORDANCE TO THE UNLAWFUL DETAINER STATUTE.

THE HEARING BEFORE THE COURT OF INQUIRY, DID NOT ADDUCE ANY EVIDENCE THAT N.W. HOLDING CO., HAD THE RIGHT OF POSSESSION,

THE COURT DID NOT MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT N. W. HOLDING CO., HAD THE RIGHT OF POSSESSION, FROM THE HOMESTEAD OCCUPANTS,

THE COURT DID NOT MAKE A WRIT OF RESTITUTION, SHOWING WHETHER THE ACTION WAS: UNLAWFUL DETAINER, OR WHETHER THE ACTION WAS: UNLAWFUL ENTRY, BEFORE THE COURT OF INQUIRY, AND WHETHER THE DEFENDANTS BREACHED THEIR CONTRACT TO PAY RENT, OR HELD OVER AFTER NOTICE TO QUIT, OR HAD ILLEGALLY ENTERED THE PREMISES OF ANOTHER, AND SIGNED BY THE JUDGE, AS REQUIRED BY STATUTE 566.

28 MINN. 461 (1881) HENNESSEY v. PEDERSON

40 CAL. RPTR. 518 (1964) HAUSE JR. V. LAMIE ET AL

97 U.S. 444 (1878) SETTLEMIER V. SULLIVAN

119 U.S. 608 IRON MOUNTAIN R.R. v. Johnson

301 F 2d 639 (CA 9)

92 N.W. 2d 569 (Iowa 1958) HALVERSON v. HAGEMAN

145 MINN. 104 BEIGLER v. CHAMBERLIN (1920)

On Rehearing, Judge LINDSAY ARTHUR's "court", was equally DEFIANT against PETITIONERS' RIGHT OF POSSESSION of the HOMESTEAD.

The Court did NOT make a writ of restitution as required by Statute,

— INSTEAD —

A Deputy Clerk of Court, not authorized by any Statute or Court Rule, prepared a Writ of Restitution, VOID UPON ITS FACE, that did not state the cause of action before the Court of Inquiry; did not contain findings, that the N. W. Holding Co., had the Right of Possession FROM the HOMESTEAD OCCUPANTS, and DID NOT contain a Judge's signature, as required by Statute.

WITHOUT WARNING, NOTICE, OR PROBABLE CAUSE, AND IN CONTEMPT OF SCHEDULED COURT HEARINGS, THE N. W. HOLDING COMPANY, THEIR ATTORNEYS AND AGENTS, THE MOHAWK TRANSFER AND STORAGE COMPANY, MINNEAPOLIS, THE MINNEAPOLIS POLICE, TOGETHER WITH OTHERS, UNDER COLOR OF LAW, DID SMASH OPEN THE HOMESTEAD PROPERTY DOOR, WITH A SLEDGEHAMMER, WHILE OCCUPANT, MELBA P. EVANSON, VAINLY TRIED TO HOLD THE DOOR SHUT.

Judge JOHN A. WEEKS signed a Restraining Order, and the Exempt Personal Possessions were returned to the HOMESTEAD.

AND AGAIN, on 30 NOVEMBER 1961, WITHOUT WARNING, NOTICE, OR PROBABLE CAUSE, IN CONTEMPT OF JUDGE WEEK'S RESTRAINING ORDER, A N D, IN CONTEMPT OF SCHEDULED COURT HEARING IN MPLS. MUNICIPAL COURT, A N D, A SCHEDULED COURT HEARING IN MINNESOTA SUPREME COURT, UNDER COLOR OF LAW, THE NORTHWEST HOLDING COMPANY, A MINNESOTA CORPORATION, THEIR ATTORNEYS AND AGENTS, THE MOHAWK TRANSFER AND STORAGE CO., THE MINNEAPOLIS POLICE, TOGETHER WITH OTHERS,

DID, BY FORCE, VIOLENCE AND TERROR,

WITH A FORCE OF 20 to 30 MEN, SEIZE A L L THE LIFE LONG PERSONAL EXEMPT POSSESSIONS OF THE HOMESTEAD PROPERTY OWNERS, GORDON EVANSON AND FAMILY; SEIZE THE HOMESTEAD PROPERTY, AND CONTINUES TO HOLD THE SAME.

<u>265 MINN. 562, 568</u> N. W. Holding vs. Evanson

"On August 16, 1961, Holmes conveyed his interest in the property to plaintiff, Northwest Holding Co., which mortgaged it for $28,000 to Twin City Federal Savings and Loan Association on August 18, 1961. (THERE HAVE BEEN TWO SUBSEQUENT CONVEYANCES.)"

N O T E :

The TWO SUBSEQUENT CONVEYANCES

the Minnesota Supreme Court refers to are :

FROM:

NORTHWEST HOLDING COMPANY, A MINN. CORPORATION,

TO:

ATTORNEY FRANK M. FUDALI, and his son, ATTORNEY RICHARD FUDALI, whose law office has been located within one city block of the HOMESTEAD PROPERTY for about 20 YEARS; Attorney FRANK M. FUDALI had been a customer of Barber, DAN ROSSO, whose BARBERSHOP was located in a portion of the HOMESTEAD PROPERTY.

ATTORNEY FRANK M. FUDALI, is the SAME ATTORNEY, that represented TENANT, MRS. FLORENCE MADY, in the Homestead-Landlord's UNLAWFUL DETAINER ACTION, on 21 NOVEMBER 1961, AND AGAIN, on 1 JUNE 1962. Attny. FUDALI represented Plaintiff, FIDELITY SEC. & INV. CO. vs. Melba P.Evanson & Paul Dan Rosso, on 20 AUG.1962, a CONSOLIDATED CASE.

FROM:

ATTORNEY FRANK M. FUDALI AND ATTORNEY RICHARD FUDALI

TO:

AN ADJOINING NEIGHBOR OF THE HOMESTEAD, THE FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP.

MP. AND MRS. DAN ROSSO & FAMILY, had been a customer of the FIDELITY BANK, an ADJOINING NEIGHBOR OF THE HOMESTEAD PROPERTY, AND OWNED BY FIDELITY SECURITIES & INVESTMENT COMPANY, for about 40 YEARS.

MR. AND MRS. DAN ROSSO & FAMILY, knew some of the same Officers, Directors and Stockholders of the FIDELITY BANK for 40 YEARS.

The SAME Officers, Directors and Stockholders hold similar positions in FIDELITY SECURITIES AND INVESTMENT COMPANY, A MINN. CORP.

<u>265 MINN. 562, 570</u> N.W. Holding Co. v. Evanson

Having failed to pursue any of the remedies which might have been available to them, and the rights of a mortgagee and purchasers apparently without notice having now intervened, it is obvious that the decree of registration must be given effect in the proceedings which are before us for review.

N O T E :

IN MINNESOTA SUPREME COURT -

THE COURT OVERLOOKED AND IGNORED THE PURPOSE OF THE CONSTITUTIONAL PROVISION, ARTICLE 1, SEC. 12, WHICH MAKES THE HOMESTEAD RIGHT ABSOLUTE, AND IS ENACTED BY STATUTE 510, HOMESTEAD EXEMPTION, AND DECLARED ABSOLUTE BY THE MINN. SUPREME COURT IN NUMEROUS COURT DECISIONS.

N O T E

THE MINNESOTA SUPREME COURT OVERLOOKED AND IGNORED

THE LAW

THE TORRENS SYSTEM OF LAND REGISTRATION.

In NONE of the States that have adopted the Torrens System, may title be acquired by prescription or by adverse possession.

Minn. St. CH. 508.02 "....No title to registered land in derogation of that of the registered owner shall be acquired by prescription or by adverse possession."

THE "DECREE IN REGISTRATION" IS VOID UPON ITS FACE,

— BECAUSE —

THE HOMESTEAD PROPERTY IS PROPERLY REGISTERED BY WARRENTY DEED IN THE HENNEPIN COUNTY REGISTER OF DEEDS, AND ASSESSED BY THE CITY ASSESSOR AS HOMESTEAD PROPERTY, AND TAXED BY THE COUNTY AT THE HOMESTEAD RATE, AND OCCUPIED BY THE HOMESTEAD OWNER, CONTINUOUSLY, QUIETLY, UNINTERRUPTED, AND NOTORIOUSLY FOR 42 YEARS.

THE MINNESOTA SUPREME COURT OVERLOOKED AND IGNORED

THE LAW ON :

VOID JUDGMENTS AND VOID DEEDS

A N D

THE POSSESSION OF THE LANDLORD, and the well established rule that a tenant in possession under his landlord's title, cannot dispute his landlord's title; A N D,

THE FOURTH AMENDMENT TO THE U. S. CONSTITUTION protection against unreasonable searches and seizure;

A N D,

THE MALICIOUS USE AND ABUSE OF LEGAL PROCESS;

A N D,

THE PURPOSE OF THE STATE AND FEDERAL CIVIL RIGHTS STATUTES;

A N D,

THE PURPOSE OF THE STATE AND FEDERAL CIVIL CONSPIRACY STATUTES;

A N D,

THE PURPOSE OF U. S. CONSTITUTION, ARTICLE IV, SECTION 4 AND AMENDMENT 14, IN STATE ACTIONS,

A N D

THE FEDERAL JUDICIAL SALES STATUTES.

ound

— IT SHOULD BE NOTED —

AT THE COMMENCEMENT OF THE SPURIOUS ACTIONS IN UNLAWFUL DETAINER BROUGHT BY N. W. HOLDING COMPANY, APPELLANTS' HOMESTEAD PROPERTY had NO liens or indebtedness of any kind, such as (1) unpaid taxes, (2) unpaid special assessments, (3) unpaid mortgages, (4) unpaid workman's liens, or (5) unpaid material-man's liens.

The HOMESTEAD PROPERTY had NOT been conveyed, mortgaged, or transferred by APPELLANTS, to ANYONE.

The HOMESTEAD PROPERTY had NOT been condemned, or taken by eminent domain, or had been subject to any such proceedings whatsoever.

The APPELLANTS had NO unpaid debts of ANY kind, nor were there proceedings of ANY kind pending in ANY court.

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JURISDICTION OF THE SUBJECT MATTER IS TO BE TESTED BY THE AUTHORIZED EXTENT OF THE POWERS OF THE COURT IN RESPECT TO THE CAUSE OF ACTION BEFORE IT.

A COURT WITHOUT JURISDICTION OF THE SUBJECT MATTER OF THE ACTION CANNOT ACQUIRE JURISDICTION BY ERRONEOUS DECISION THAT IT HAS JURISDICTION.

A JUDGMENT RENDERED BY A COURT WITHOUT JURISDICTION OF THE SUBJECT MATTER OF THE ACTION IS VOID, AND THE DEFENDANT MAY RAISE AND REITERATE THE OBJECTION OF WANT OF JURISDICTION AT ANY STAGE.

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STATEMENT THE FACTS

PETITIONERS' TITLE SINCE 1919.

Records of the Register of Deeds, Hennepin County, Minnesota, reflect since the year 1919, the title recorded in the same family continuous and uninterrupted, of the premises described as LOT 4, BLOCK 9, Wilson's Rearrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39, and 41 of East Side Addition to City of Minneapolis, commonly known as 2324-2326 Central Avenue Northeast, Minneapolis, Minnesota.

The above described premises have been occupied and maintained continuously and uninterruptedly, by the same family as HOMESTEAD, since the year 1919, with taxes assessed to, and paid by, the same family since the year 1919.

HOMESTEAD OCCUPANTS SINCE THE YEAR 1919 :

2326 Central Ave. APARTMENT — MRS. PAULINA ROSSO (Wife of DAN ROSSO, deceased).

PAUL DAN ROSSO (Son of Dan and Paulina Rosso).

(DAN ROSSO OPERATED A BARBERSHOP FOR 35 YEARS IN THE HOMESTEAD PREMISES, PRIOR TO HIS RETIREMENT).

HOMESTEAD OCCUPANTS:

2324 Central Ave. APARTMENT — Mrs. GORDON EVANSON (MELBA - Daughter of Dan and Paulina Rosso).

Mr. GORDON L. EVANSON
DAVID EVANSON - (Son of Gordon and Melba Evanson)
DIANA EVANSON - (Daughter of Gordon and Melba Evanson).

The HOMESTEAD PROPERTY had NO LIENS or indebtedness of any kind, such as, (1) unpaid taxes, (2) unpaid special assessments, (3) unpaid mortgages, (4) unpaid workman's liens, or (5) unpaid materialman's liens.

The HOMESTEAD PROPERTY had not been conveyed, mortgaged, or transferred to anyone.

The HOMESTEAD PROPERTY had not been condemned, or taken by eminent domain, or had been subject to any such proceedings whatsoever.

The HOMESTEAD OCCUPANTS had no unpaid debts of any kind, nor were there proceedings of any kind pending in any Court.

The following letter was received :

"MINENKO, FEINBERG, MIRVISS, MEYERS & SCHUMACHER

ATTORNEYS AT LAW
TITLE INSURANCE BUILDING
400 SECOND AVENUE, SOUTH
MINNEAPOLIS 1, MINNESOTA

EUGENE MINENKO
ARNOLD I. FEINBERG
ISRAEL MIRVISS
RICHARD MEYERS
JAMES J. SCHUMACHER

FEDERAL 9-0431
SUBURBAN OFFICES:
BLOOMINGTON
NEW BRIGHTON

August 18, 1961

Gordon Evanson and Melba P. Evanson
2326 Central Avenue N. E.
Minneapolis, Minnesota

Dear Gordon Evanson and Melba P. Evanson:

This is to advise that I am the attorney for the Northwest Holding Company which has purchased the property at 2326 Central Avenue NE. and that you are hereby notified to vacate the premises that you are now occupying at this address within seven days from receipt of this letter.

If you have not vacated the premises by that time, I shall commence whatever legal proceedings are necessary to secure possession of the premises for my client.

Very truly yours,

s/ I. Mirviss
I. Mirviss

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED."

The following answer was made :

"August 21, 1961

"Mr. Israel Mirviss
400 Second Ave. So.
Minneapolis 1, Minnesota

"Dear Sir:

Regarding your letter of August 18, 1961, notifying us to vacate our premises.

We are the absolute owners of the property located at 2324-26 Central Ave. N.E., and we have not sold this property, nor do we intend to do so.

In regard to the Northwest Holding Company directing you to evict us, this is clearly erroneous, because we, the undersigned, are the owners.

Please advise the Northwest Holding Company at once, that we are the owners of the property which your letter refers to.

Yours truly,

/s/ Melba P. Evanson
Melba P. Evanson

/s/ Gordon Evanson
Gordon Evanson OWNERS
2324 Central Ave. N.E.
Minneapolis 18, Minnesota"

CERTIFIED MAIL
541200
RETURN RECEIPT
REQUESTED.
Rec'd : 8-22-61
/s/ Israel Mirviss

NO ANSWER WAS MADE, TO LETTER DATED August 21, 1961, from Gordon and Melba Evanson, to MR. ISRAEL MIRVISS.

INSTEAD, THE FOLLOWING COMPLAINT WAS SERVED UPON GORDON EVANSON AND MELBA P. EVANSON :

"COMPLAINT IN UNLAWFUL DETAINER

"Arnold I. Feinberg, being first duly sworn on oath complains and states to the Court:

That on or about August 16, 1961, the plaintiff purchased and received a quit claim deed from William Holmes which deed was recorded on August 22, 1961 in the Registrar of Titles, Hennepin County, Minnesota. William Holmes' Torrens certificate was No. 33326 and the new certificate to Northwest Holding Company is being issued by the Registrar of Titles as Certificate No. 333703. In addition thereto on August 18, 1961, Northwest Holding Company did mortgage to Twin City Federal which mortgage was recorded on August 22, 1961. Said property being legally described as Lot 4, Block 9, Wilson's Re-arrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39 and 41 of East Side Addition to City of Minneapolis, commonly known as 2326 Central Avenue N.E., Minneapolis, Minnesota.

"It was the order and decree of registration in proceeding No. 14838, District Court, Fourth Judicial District that William Holmes have the estate in fee simple in said property and that Gordon Evanson and Melba P. Evanson occupied said premises at sufferance.

"That said defendants have failed and refused to remove themselves from the premises and are still in possession of the premises and unlawfully detain the possession thereof from the plaintiff.

WHEREFORE, complainant demands judgment against the defendants for the restitution of said premises and the costs and disbursements herein. /s/ Arnold I. Feinberg
ARNOLD I. FEINBERG"

STATE OF MINNESOTA
County of Hennepin. } ss

Municipal Court, City of Minneapolis

U. D. No. 33943

Decision and Order

The above entitled action came regularly on for trial before the undersigned, one of the Judges of said Court, without a jury, on the 26th day of September, 1961, the plaintiff appearing in person and by Arnold I. Feinberg, Esq., as counsel, the defendants appearing in person and by _____ Esq., as counsel, and pleading not guilty.

The Court finds the defendants guilty of unlawful detention of the premises described in the complaint and concludes that the plaintiff have restitution of said premises without delay and recover costs and disbursements herein.

STAYED UNTIL OCT. 1, 1961

Let judgment be entered accordingly.

By the Court,

Dated this 26th day
of September, 1961
FIVE DAY STAY

Bruce C. Stone
Judge.

On 26 SEPTEMBER 1961, in Minneapolis Municipal Criminal Court, PETITIONERS were "convicted" of unlawful detention of the HOMESTEAD PREMISES, WITHOUT FACTS ALLEGED, or PROOF ADDUCED, while in continuous, uninterrupted, exclusive, notorious, and peaceable possession, for a period of 42 years.

At the hearing before Judge BRUCE C. STONE, each of the Petitioners asserted peaceable possession of the premises and Absolute Homestead Rights, for 42 years. (Minn. S.Ct. RECORD, P. 5-16. ANSWER TO COMPLAINT IN UNLAWFUL DETAINER No. 33943.

On 28 NOVEMBER 1961, a timely Application to the MINNESOTA SUPREME COUPT, No. 38634, was filed, for Extra-Ordinary Relief. Hearing Day, 7 DECEMBER 1961.

On 6 DECEMBER 1961, PETITIONER received, "RESPONSE OF DEFENDANT NORTHWEST HOLDING CO. TO PLAINTIFF'S PETITION AND MOTION", with attached AFFIDAVIT, both signed by Attorney ARNOLD I. FEINBERG. (MINN. S.CT. RECORD, P. 100 thru 104.)

This RESPONSE did NOT allege facts sufficient to show the RIGHT OF POSSESSION, and remained SILENT on all other issues.

On 6 DECEMBER 1961, PETITIONERS served MEMORANDUM TO AID THE COURT A N D ANSWER TO RESPONSE OF DEFENDANT. (Minn. S.Ct. RECORD 105-112).

On 13 DECEMBER 1961, PETITIONERS received a letter from MAE SHERMAN, Clerk of Supreme Court, stating :

"IT IS ORDERED that the petition for special relief be, and the same hereby is denied".

WHEN IN FACT, NO HEARING WAS HELD BY THE COURT.

A timely APPEAL was made to the Minn. Supreme Court.

In Minnesota Supreme Court, APPEAL, CASE No. 38771, Hearing Day, 6 DECEMBER 1962, NO RESPONSE was made by Appellee, N.W. HOLDING CO., A MINN. CORP., NOR, did a Principal Defendant appear, to represent the Appellee in the Main Action, NOR, did an Appellee appear in ANY of the SIX CONSOLIDATED ACTIONS.

The Minn. Supreme Court dated JUNE 21, 1963, OPINION (265 MINN. 562) Dismissed, and stated in part: "This has been unusual and unfortunate litigation. ....for which they now appear to have no remedy...."

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Two (2) timely PETITIONS FOR REHEARING, Case No. 38771, were "denied".

The action was timely REMOVED to the U. S. District Court of Minnesota, to adjudicate the Federal Claims. (4-63 Civil 457).

"WHERE STATE PROCEDURAL SNARLS OR OBSTACLES PRECLUDE AN EFFECTIVE STATE REMEDY AGAINST UNCONSTITUTIONAL CONVICTIONS, FEDERAL COURTS HAVE NO OTHER CHOICE BUT TO GRANT RELIEF IN THE COLLATERAL PROCEEDING".

The N.W. HOLDING CO., by attorney ARNOLD I. FEINBERG, made MOTION TO DISMISS, because, "....obviously, this court could not review an appeal of the Minnesota Supreme Court".

This motion was granted, and APPELLANTS' timely MOTIONS FOR SUMMARY JUDGMENT were not ruled upon.

In a dated JANUARY 13, 1964, ORDER OF DISMISSAL, Judge GUNNAR H. NORDBYE, stated in part:

"Obviously, this Court has no jurisdiction to entertain petitioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein. "It follows, therefore, that respondent's motion to dismiss the petition herein must be granted. It is so ordered."

PETITIONERS made numerous timely motions in accordance to the Court rules, adjudicated cases, state and federal statutes, state and federal constitutional rights, and the Common Law; as well as served ADMISSIONS OF TRUTH, entered Exhibits, etc., but the Federal Court would not adjudicate, even though, NO RESPONSIVE PLEADINGS had been made.

The U.S. District Court, in a dated DECEMBER 20, 1965, ORDER, stated in part:

> "The Clerk of this Court, therefore, is directed and ordered not to accept for filing from plaintiffs....."

A timely "MOTION IN ARREST OF JUDGMENT" was served and mailed with proof of service to the Clerk for filing.

The Clerk of Court returned the motion.

On Hearing Day, JANUARY 10, 1966, the Chief Judge, would not accept the Motion for filing, NOR, would he hear the matter.

"THE COURT: Mr. Rosso, you know Judge Nordbye has made an order advising the Clerk not to accept any more filings from you. You see, he has heard your case over and over again, and he has tried to explain to you

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> how you have no cause of action here; and so the Clerk isn't authorized to file this instrument now....Maybe you have some recourse over in State court, but you don't have any here..."

A timely Application to the U.S. Court of Appeals for MANDAMUS, No. 18276, was "denied", on FEBRUARY 16, 1966. (Not yet reported, in the Federal Reporter System).

A TIMELY APPEAL, No. 18319, was docketed in the U.S. Court of Appeals.

On NOVEMBER 15, 1966, the Court affirmed the U. S. District Court.

On NOVEMBER 29, 1966, the Court denied a timely MOTION IN ARREST OF JUDGMENT AND THE JUDGMENT IS VOID AND MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING.

STATEMENT

I. VERIFIED PETITION, U.S. DISTRICT COURT.
THE COMPLAINT.

This action was disposed of by the U.S. District Court, upon motion for dismissal of the complaint,

* * P R I O R T O D E T E R M I N I N G * *

WHETHER THE COURT HAD "JURISDICTION",

WHETHER THE COURT HAD "VENUE JURISDICTION",

WHETHER PETITIONERS SHOULD BE PERMITTED TO SECURE DISCOVERY,

AND WITHOUT RULING ON THE TWO TIMELY MOTIONS FOR SUMMARY JUDGMENT, A N D,

WITHOUT ORDERING PETITIONERS TO AMEND TO SHOW JURISDICTION.

BLACK'S LAW DIC., 4th Ed., 1727. "Jurisdiction" of the Court MEANS the inherent power to decide a case whereas "venue" designates the particular county or city in which a court with jurisdiction may hear and determine the case.

320 F 2d 219 (1962 Vt.)(CA2) Arrowsmith v. United Press International
F.C.P. Key 1827
WHERE DEFENDANT MOVES TO VACATE ON VARIOUS GROUNDS, INCLUDING LACK OF PERSONAL JURISDICTION, IMPROPER VENUE, AND FAILURE OF COMPLAINT TO STATE RELIEF, ON WHICH RELIEF CAN BE GRANTED, COURT SHOULD CONSIDER ISSUES OF JURISDICTION AND VENUE, PRIOR TO CONSIDERATION OF MERITS CLAIM. (Rule 12(b).

6 FRD 340 (D.C. Kan.) Panhandle Eastern Pipe Line Co., v. Parish.

IF THE STATE COURT LACKS JURISDICTION BEFORE REMOVAL, THE DISTRICT COURT CAN ACQUIRE NONE; CONVERSELY, IF

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THE STATE COURT HAS JURISDICTION AND REMOVAL REQUIREMENTS ARE SATISFIED, THE ELEMENTS OF FEDERAL JURISDICTION OTHERWISE EXISTING, JURISDICTION ATTACHES ON REMOVAL; CASES CITED.

37 FRD 62 (1965 Hawaii) Haleiwa Theatre Co. v. Forman.
Federal Civil Procedure Key 1269.

PETITIONER SHOULD BE PERMITTED TO SECURE DISCOVERY SO THAT MATTER OF PROPER OR IMPROPER VENUE CAN BE MORE ADEQUATELY DECIDED ON ALL ACTUAL AVAILABLE FACTS, RATHER THAN ON TECHNICAL MOTION TO DISMISS BASED ON CONCLUSORY EX PARTE AND SELF-SERVING STATEMENTS WHICH MAY NOT PRESENT THE COMPLETE PICTURE.

264 F (2d) 666, aff'g 162 F Supp. 944.

A CORPORATION CANNOT REFUSE TO ANSWER INTERROGATORIES PROPOUNDED BY THE UNITED STATES ON THE OBJECTION THAT TO REQUIRE ANSWER WOULD DESTROY CONSTITUTIONAL PRIVILEGE AGAINST SELF-INCRIMINATION, SINCE THE 5TH AMENDMENT (CONST. AMEND. 5) PLEA IS PERSONAL AND CORPORATION CANNOT TAKE ADVANTAGE OF SAME.

II. MOTION FOR DISMISSAL AND AFFIDAVIT.

In the Complaint, it is alleged that the HOMESTEAD PROPERTY, in quiet, peaceable possession, was taken by FORCE, VIOLENCE and TERROR, under the "color of law", together with the EXEMPT PERSONAL LIFELONG POSSESSIONS of GORDON EVANSON and FAMILY, and subsequently, the HOMESTEAD GARAGES, together with the CONTENTS therein, were Took and Carried Away.

The Complaint also alleges that the INVASION and SEIZURE, was in contempt of a District Court Temporary Restraining Order; scheduled Court re-hearing in Municipal Court, and a scheduled Court hearing for Extraordinary Relief in the Minnesota Supreme Court.

The Complaint also alleges the TENANTS IN POSSESSION, under their Landlord's Title, breached their contract to pay rent, and attorned to a Stranger.

The Complaint also alleges the FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP., instituted a spurious District Court Action, to PREVENT the HOMESTEAD OWNER from obtaining the RIGHT OF POSSESSION from mere TENANTS, and UNLAWFUL ENTRY TRESPASSERS.

The N.W. HOLDING CO., specifically denied these allegations in the "bare bones" motion for dismissal, together with an attached Affidavit.

MOTION FOR DISMISSAL Civil Action File No.4-63 Civ. 457
Hearing Day: JANUARY 13, 1964.

The defendant moves the Court as follows:

1. To dismiss the action because the complaint or petition fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof quash the return of service of summons on the ground that the court lacks jurisdiction because there is no federal or constitutional question involved and the parties are not citizens of diverse state.

Bound

3. To dismiss the action on the ground that the court lacks jurisdiction because no justiciable controversy is presented.

FEINBERG, MIRVISS, MEYERS, SCHUMACHER & MALMON

By /s/ Arnold I. Feinberg
Arnold I. Feinberg
Attorneys for Defendant
810 Title Insurance Bldg.
Minneapolis 1, Minnesota

A F F I D A V I T

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss

Arnold I. Feinberg, being first duly sworn upon oath deposes and says that he is an attorney at law duly licensed to practice his profession in the State of Minnesota and in the Federal District Court for the District of Minnesota.

That he represented the defendant in this action, namely Northwest Holding Company, a Minnesota corporation, in an unlawful detainer action in the Municipal Court of the City of Minneapolis in which the above named plaintiffs were the defendants. That the Municipal Court of the City of Minneapolis ruled in favor of the Northwest Holding Company and against the present plaintiffs in said unlawful detainer action, whereupon, the present plaintiffs appealed the decision of the Minneapolis Municipal Court to the Supreme Court of the State of Minnesota.

That the Supreme Court of the State of Minnesota in its case No. 38771 and in a decision rendered by the Supreme Court of the State of Minnesota on June 21, 1963, affirmed the decision of the Minneapolis Municipal Court in said case.

That the plaintiffs in this action are apparently seeking some sort of review of the decision of the Supreme Court of the State of Minnesota in this Court. It is respectfully submitted that this Court does not have the jurisdiction to review decisions of the Supreme Court of the State of Minnesota.

Further affiant sayeth not.

/s/ Arnold I. Feinberg

Subscribed and sworn to before me
this 23rd day of December, 1963.
/s/ BEVERLY L. LARSON
BEVERLY L. LARSON
Notary Public, Hennepin Co., Minn.
My Commission expires Feb. 10, 1966.

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45 N.W. 2d 848

"IN FURNISHING AN AFFIDAVIT UPON WHICH A COURT MUST RELY FOR JURISDICTION, A LITIGANT MAY NOT WASH FROM HIS EARS WHAT HE HAS HEARD, BLOT FROM HIS MEMORY WHAT HE HAS KNOWN AND DIRECT THE SERVICE OF PROCESS DOWN A BLIND ALLEY. SUBTERFUGE IS NOT LOOKED UPON WITH FAVOR. FRAUD ON THE COURT INCIDENT TO DUE PROC IS JURISDICTIONAL. A JUDGMENT OR DECREE BASED ON JURISDICTIONAL FRAUD IS VOID."

By Snell, Justice. In re Estate of Roedell, 122 NW 2d 842. (Citing Korsrud v. Korsrud, 242-178, 45 NW 2d 848).

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III. THE LEGAL EFFECT OF
THE MOTION FOR DISMISSAL AND AFFIDAVIT.

The Motion for Dismissal, specifically alleges the Complaint fails to state a claim against the Defendant upon which relief can be granted, and the Court lacks jurisdiction, the LEGAL EFFECT thereof being, to concede that:

The HOMESTEAD PROPERTY was peaceably taken in accordance to due process of law,

The EXEMPT PERSONAL LIFELONG POSSESSIONS of GORDON EVANSON & FAMILY, were peaceably taken, and would be SOLD IN INTERSTATE COMMERCE, in accordance to due process of law,

The Temporary RESTRAINING ORDER, A N D SCHEDULED COURT HEARINGS were spuriously obtained for delay, and could be ignored,

The TENANTS breached their rental contracts, and attorned to a Stranger, in accordance to judicial proceedings, conducted in accordance to law,

A N D,

The FIDELITY SECURITIES & INVESTMENT COMPANY, A MINN. CORPORATION, a third-party "TORRENS TITLE OWNER" whose rights have now intervened, was seeking judicial relief, in accordance to law, from the spurious Unlawful Detainer Actions brought by the HOMESTEAD-LANDLORD against TENANTS, who gained possession under their Landlord's Title,

AND FROM,

the spurious Unlawful ENTRY actions brought by the HOMESTEAD-LANDLORD, against UNLAWFUL ENTRY TRESPASSERS, after one month's NOTICE TO QUIT, A N D,

The HOMESTEAD GARAGES, together with the CONTENTS therein, were lawfully TAKEN AND CARRIED AWAY, at the direction of a THIRD-PARTY TORRENS TITLE OWNER, FIDELITY SECURITIES & INVESTMENT CO., for the purpose of ENLARGING their PARKING LOT, A N D,

The N.W. HOLDING CO., had the right of possession WITHOUT SERVICE in Unlawful Detainer, being made upon PAUL DAN ROSSO and PAULINA ROSSO (Sheriff's Return SHOWS PAUL ROSSO "NOT FOUND"; PAULINA ROSSO "NOT FOUND")

WITHOUT making a CLAIM for the Right of Possession, as required by the Unlawful Detainer STATUTE,

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WITHOUT adducing ANY EVIDENCE to claim the Right of Possession, at the Court of Inquiry,

WITHOUT making a RESPONSE to the HOMESTEAD-DEFENDANTS' TIMELY ANSWER, alleging peaceable possession and Title since the year 1919,

A N D W I T H,

A "Writ of Restitution", PREPARED by a "DEPUTY CLERK" of Minneapolis Municipal Court,

* * * * THE LEGAL EFFECT * * * *

THE N. W. HOLDING COMPANY, A MINN. CORPORATION, THEIR AGENTS, EMPLOYEES, ATTORNEYS AND OWNER; THE MOHAWK-TRANSFER AND STORAGE COMPANY; THE MINNEAPOLIS POLICE (ABOUT 20 to 30 POLICEMEN); TOGETHER WITH OTHERS,

COULD OVERLOOK AND IGNORE FEDERAL AND STATE PROTECTED RIGHTS

AND INVADE WITHOUT NOTICE, WARNING, OR PROBABLE CAUSE, IN DISTURBANCE OF THE PUBLIC PEACE, AND BY FORCE SEIZE THE HOMESTEAD PROPERTY, TOGETHER WITH ALL THE LIFELONG EXEMPT PERSONAL POSSESSIONS AND EXEMPT HOUSEHOLD POSSESSIONS THEREIN (OVER 6,000 POUNDS) ; AND OBTAIN A $28,000 MORTGAGE FROM TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION, MINNEAPOLIS;

and THEN "SELL", THE HOMESTEAD PROPERTY, SUBJECT TO TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION MORTGAGE — TO A HOMESTEAD NEIGHBOR, namely :

ATTORNEY FRANK M. FUDALI, and his Son,

ATTORNEY RICHARD H. FUDALI —

(For about 20 years, FUDALI'S LAW OFFICE has been located within one City block of the Homestead)

AND "SELL" ALL THE LIFELONG EXEMPT PERSONAL POSSESSIONS AND HOUSEHOLD POSSESSIONS IN INTERSTATE COMMERCE.

tly Bound

IV. HEARING DAY, U. S. DISTRICT COURT
JANUARY 13, 1964.

The N. W. HOLDING COMPANY, made MOTION FOR DISMISSAL, return day, January 13, 1964.

ON HEARING DAY, JANUARY 13, 1964, NO PRINCIPAL DEFENDANT appeared to represent the N.W. Holding Co., a Minnesota Corporation.

NO PRINCIPAL DEFENDANT appeared to represent ANY of the Defendants in the SIX CONSOLIDATED CASES :

MELBA P. EVANSON v. H. H. WEESE

MELBA P. EVANSON v. MRS. FLORENCE MADY

MELBA P. EVANSON v. ANCHOR LAUNDRY CO., A MINN. PARTNERSHIP WM. HIRSCH OWNER-PARTNER

MELBA P. EVANSON v. MR. & MRS. ALBERT A. POIN

MELBA P. EVANSON v. MR. & MRS. KENNETH MELL, JR.

FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP.
v.
MELBA P. EVANSON AND PAUL DAN ROSSO

ARNOLD I. FEINBERG, Attorney, appeared and represented N. W. HOLDING COMPANY, A MINNESOTA CORPORATION.

NO ATTORNEY appeared to represent ANY of the Defendants in the SIX CONSOLIDATED CASES.

PETITIONERS served and filed with proof of service, a timely MOTION FOR SUMMARY JUDGMENT against N. W. HOLDING COMPANY.

PETITIONERS timely served and filed with proof of service, INTERROGATORIES upon Defendant-President-Attorney ISRAEL MIRVISS of N. W. HOLDING COMPANY.

NO RESPONSE, OR OBJECTIONS TO THE INTERROGATORIE was made by Defendant ISRAEL MIRVISS.

PETITIONERS timely served and filed with proof of service, a MOTION FOR SUMMARY JUDGMENT against Defendan President-Attorney ISRAEL MIRVISS of N. W. HOLDING CO.

NO FACTS WERE ADDUCED ON HEARING DAY

BY ATTORNEY ARNOLD I. FEINBERG TO SHOW THAT

The HOMESTEAD PROPERTY was peaceably taken in accord to due process of law;

The HOMESTEAD-OWNER did not have the RIGHT OF POSSE

The EXEMPT PERSONAL LIFELONG POSSESSIONS (over 6,00 pounds), were peaceably taken in accordance to law;

The TEMPORARY RESTRAINING ORDER was set aside;

The SCHEDULED COURT HEARINGS in the Minneapolis MUNICIPAL COURT, A N D the MINNESOTA SUPREME COURT, were CANCELLED - WITHOUT A HEARING;

The TENANTS, IN POSSESSION UNDER THEIR HOMESTEAD-LANDLORD'S TITLE, COULD BREACH their Rental Contract, and ATTORN to a STRANGER, in accordance to law;

The UNLAWFUL ENTRY TRESPASSERS, AFTER ONE MONTH'S "NOTICE TO QUIT", from the HOMESTEAD-OWNER, had the Right of POSSESSION of the Homestead APARTMENTS, in accordance to law;

The MINNEAPOLIS CRIMINAL COURT had JURISDICTION in Unlawful Detainer, over PAUL ROSSO and PAULINA ROSSO - when the Sheriff's Returns indicate, : "NOT FOUND";

The FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP., was seeking RELIEF from the HOMESTEAD OWNER'S SPURIOUS SUITS for the RIGHT OF POSSESSION, from MERE TENANTS and TRESPASSERS, occupying PORTIONS of the Homestead, AND,

The HOMESTEAD GARAGES, and CONTENTS THEREIN, were removed in accordance to law, at the direction of the "Torrens Title Owner" - FIDELITY SECURITIES AND INVESTMENT CO., A MINNESOTA CORPORATION.

THE SUMMONS AND COMPLAINT IN UNLAWFUL DETAINER prepared by Attorney ARNOLD I. FEINBERG, SERVED upon GORDON EVANSON and MELBA P. EVANSON,

CONCLUSIVELY SHOWS :

ATTORNEY FEINBERG K N E W THE EVANSONS WERE IN PEACEABLE POSSESSION OF THE HOMESTEAD.

THE AFFIDAVIT, dated SEPTEMBER 19, 1961, signed by ATTORNEY FEINBERG, states that he has read the foregoing Complaint, (served upon Gordon Evanson and Melba P. Evanson), which alleges, "...THAT SAID DEFENDANTS...ARE STILL IN POSSESSION OF THE PREMISES..."

CONCLUSIVELY SHOWS :

ATTORNEY FEINBERG K N E W THE DEFENDANTS EVANSONS, WERE IN PEACEABLE POSSESSION OF THE HOMESTEAD. (Minn. S.CT. RECORD, P. 2 and 4.)

THE SUMMONS AND COMPLAINT IN UNLAWFUL DETAINER, and attached AFFIDAVIT, prepared by Attorney FEINBERG, filed in Mpls. Criminal Court, with Sheriff's Returns that show PAUL ROSSO "NOT FOUND" and PAULINA ROSSO "NOT FOUND", CONCLUSIVELY SHOWS :

ATTORNEY FEINBERG K N E W THE ROSSOS WERE IN PEACEABLE POSSESSION OF THE HOMESTEAD.

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THE TRANSCRIPT taken on Hearing Day, JANUARY 13, 1964, in the U.S. DISTRICT COURT, reflects :

"MR. FEINBERG : "...real estate previously owned by these people..."

CONCLUSIVELY SHOWS :

ATTORNEY ARNOLD I. FEINBERG K N E W the REAL ESTATE WAS PROPERLY RECORDED IN THE REGISTER OF DEEDS OFFICE, IN THE NAME OF THE HOMESTEAD OCCUPANTS.

SEE: TRANSCRIPT - Case No. 4-63 Civ. 457
Hearing Day, January 13, 1964.
PAGE 171A

STATEMENT

V. IN U. S. COURT OF APPEALS.

HEARING DAY : OCTOBER 10, 1966.

This action was disposed of by the U. S. Court of APPEALS, on two different occasions :

1. A timely PETITION FOR MANDAMUS, CASE NO. 18276, was "denied"; on FEBRUARY 16, 1966. (Not yet reported in the Federal Reporter System.)

2. A timely APPEAL, CASE NO. 18319, was "dismissed", by affirming the U. S. District's action, on NOVEMBER 15, 1966.

THE U. S. COURT OF APPEALS :

> "HELD, that federal district court had no jurisdiction to review decision of state supreme court."

386 F 2d 531, 532 Evanson et al., v. N.W.Holding Co.

THE ACTION OF THE DISTRICT COURT IN DISMISSING THE CASE FOR WANT OF JURISDICTION IS SO OBVIOUSLY CORRECT THAT WITHOUT FURTHER COMMENT SUCH ACTION IS AFFIRMED.

A portion of the Minnesota Supreme Court OPINION, was recited as disposing of the State and Federal Questions raised.

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The U.S. Court of Appeals, did not order the Appellants to amend to show jurisdiction, prior to dismissal, NOR, did the Court make any findings that the interlocked and consolidated actions were improvidently removed, NOR, did the Court make findings that under no set of facts alleged, could a claim be construed.

NO ANSWER or OBJECTIONS, or APPEARANCE FORM was made by any of the parties in the U.S. Court of APPEALS.

368 F 2d 561 Evanson et al v. N.W. Holding Co.

"PAUL DAN ROSSO, pro se.

"JOE WALTERS, Minneapolis, Minn., for appellee.

"No oral arguement was made or brief was filed on behalf of appellee."

* * * IT SHOULD BE NOTED * * *

On Hearing Day, 10 OCTOBER 1966, U.S. Court of Appeals, NO PRINCIPAL DEFENDANT appeared to represent ANY of the several parties, NOR, did an Attorney appear to represent ANY of the several actions.

On Hearing Day, in the U.S. Court of Appeals, the ONLY PERSONS in the Courtroom, were the JUDGES; LAW CLERKS; CLERK OF COURT; PAUL DAN ROSSO and MELBA P. EVANSON. "JOE WALTERS" WAS NOT PRESENT FOR APPELLEE.

A timely MOTION FOR ARREST OF JUDGMENT AND THE JUDGMENT IS VOID AND MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING, was "denied", on 29 NOVEMBER 1966.

The U. S. Court of Appeals, has the duty to make inquiry into jurisdictional questions factually to find the truth, and if necessary, the Court has the duty to order amendment of pleadings to show jurisdiction (28 USC 1653) in order to grant real, complete, and lasting relief.

293 US 52, 54; 55 S.CT. 16 (1936); 125 US 18; 8 S.CT. 741 (1888)

IT IS ESSENTIAL TO THE JURISDICTION OF THIS COURT IN REVIEWING A DECISION OF A COURT OF A STATE THAT IT MUST APPEAR AFFIRMATIVELY FROM THE RECORD, NOT ONLY THAT A FEDERAL QUESTION WAS PRESENTED FOR DECISION TO THE HIGHEST COURT OF THE STATE HAVING JURISDICTION, BUT THAT ITS DECISION OF THE FEDERAL QUESTION WAS NECESSARY TO DETERMINATION OF THE CAUSE, AND THAT IT WAS ACTUALLY DECIDED OR THAT THE JUDGMENT AS RENDERED COULD NOT HAVE BEEN GIVEN WITHOUT DECIDING IT.

Bound

VI. JURISDICTION THROUGH THE VARIOUS COURTS.

The Minneapolis Criminal Court DID NOT HAVE JURISDICTION, to "give" N.W. HOLDING COMPANY, the Right of Possession of the Homestead Premises,

WHEN THE RECORD CLEARLY SHOWS :

NO SERVICE WHATSOEVER was made upon PAUL ROSSO and PAULINA ROSSO;

The SUMMONS in Unlawful Detainer, served upon GORDON EVANSON and MELBA P. EVANSON, was NOT SIGNED by a Judge, as required by Statute;

NO FACTS were alleged in the U.D. COMPLAINT, to CLAIM the Right of Possession, as required by Statute;

NO FACTS were adduced at the "hearing" to show the N.W. HOLDING CO., had the "right of possession", from the HOMESTEAD-OCCUPANTS, in peaceable, exclusive, notorious possession, since the year 1919.

NO FINDINGS were made by the Court, NOR was the WRIT OF RESTITUTION, made by the Court, as required by Statute.

The Minneapolis Criminal Court has JURISDICTION TO ENTERTAIN A N Y DEFENSE to the Unlawful Detainer Action. (Minn.S.CT. RECORD,P. 39 thru 53, (TRANSCRIPT - Mun.Crim.Ct. JUDGE STONE)

GORDON EVANSON and MELBA P. EVANSON, BY DEFENSE, alleged the PEACEABLE POSSESSION of the HOMESTEAD PROPERTY; a Recorded Title in the Register of Deeds Office; the Premises assessed by the City Assessor, at the homestead rate; and the taxes levied by the County Treasurer, at the Homestead Rate.

AT THE CRIMINAL COURT HEARING, PAULINA ROSSO alleged TITLE since the year 1919, and PEACEABLE POSSESSION.
((SEE: WRITTEN ANSWER TO COMPLAINT IN U.D. Page 20A))

THE DEFENSE BY WRITTEN ANSWER, also alleged that the Mpls. Criminal Court, in accordance to the Municipal Court Act, should "LOOK INTO AND TAKE ACTION", into several pretended actions, to "purge the record".

92 NW 2d 569 (Iowa 1958) Halverson v. Hageman.

97 US 444 (1878) Settlemier v. Sullivan.

A VOID JUDGMENT COULD BE DISREGARDED AND TREATED AS A NULLITY WHENEVER ANY RIGHT WAS CLAIMED UNDER IT, WHETHER SET ASIDE OR NOT.

IT MAINTAINED THE APPEAL SOLELY FOR THE PURPOSE OF REVERSING THE JUDGMENT AND THUS PURGING ITS RECORDS.

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A timely Application for Extraordinary Relief was made to the Minnesota Supreme Court, in accordance to Supreme Court Rules of Practice, RULE IV, and Statute Ch. 480.04.

The N. W. Holding Company made a MOTION FOR DISMISSAL. No hearing was held in the Supreme Court, on the Application. Instead, the Clerk, entered an ORDER, denied.

PAUL ROSSO later learned from Chief Judge OSCAR R. KNUTSON, "We never had that case".

A timely APPEAL was made to the Minn. Supreme Court, in accordance to Statute 605.09(7). The N. W. Holding Co., made a MOTION FOR DISMISSAL. This Motion was DENIED.

Neither the N. W. Holding Company, NOR the Interlocked and Consolidated Cases made an Answer. On JUNE 21, 1963, the Court dismissed the APPEAL, becuase, "No appeal has been taken from the judgment of restitution entered November 8, 1961".

No decision was entered in any of the consolidated cases. In a timely PETITION FOR REHEARING, the Appellants pointed out, that the Criminal Court

D I D N O T E N T E R A "JUDGMENT OF RESTITUTION"

FROM WHICH AN APPEAL COULD BE TAKEN.

THE MPLS. CRIMINAL COURT ONLY ISSUED ORDERS, "DENIED" STAY 5 DAYS; and on REHEARING, ORDER "DENIED" STAY 10 DAYS; and ORDER "DENIED" NUNC PRO TUNC.

((SEE: MINN. SUP. CT. RECORD #38771 for ORDERS PAGES 55, 77, and 81)) AND PAGE 56 FOR WRIT OF RESTITUTION.

N O T E.: The N.W. Holding Co., had obtained a "Writ of Restitution", VOID UPON ITS FACE, from a Deputy Clerk of Court, NOT SIGNED by a Judge, as required by Statute, and WITHOUT STATING THE CAUSE OF ACTION BEFORE THE COURT OF INQUIRY; AND WITHOUT FINDINGS AND CONCLUSIONS OF LAW BY THE COURT, that N.W. HOLDING COMPANY had the Right of Possession.

The timely PETITIONS FOR REHEARING were also denied, by the Minnesota SUPREME COURT.

230 MINN. 279; 16 ALR 2d 1015 (1950)

FOR AN ORDER TO BE APPEALABLE UNDER MINN. ST. 605.09(3), WHICH ALLOWS AN APPEAL FROM AN ORDER INVOLVING THE MERITS, THE ORDER MUST FINALLY DETERMINE THE ACTION OR SOME POSITIVE LEGAL RIGHT OF APPELLANT RELATING THERETO.

y Bound

240 MINN. 505 (1953)

THE TEST OF APPEALABILITY IS WHETHER THE ORDER IN EFFECT FINALLY DETERMINES THE ACTION OR FINALLY DETERMINES SOME POSITIVE LEGAL RIGHT OF THE APPELLANT RELATING THERETO.

240 MINN. 468 (1953)

BEFORE A JUDGMENT CAN BE SUSTAINED ON APPEAL, THE CONCLUSIONS UPON WHICH IT IS BASED MUST FIND SUPPORT IN THE FINDINGS. REMEDY FOR FAILURE TO MAKE SPECIFIC FINDINGS ON LITIGATED ISSUES IS BY MOTION IN THE TRIAL COURT BEFORE OR SUBSEQUENT TO JUDGMENT, BUT THIS PRINCIPLE DOES NOT LIMIT SUPREME COURT'S AUTHORITY TO DETERMINE ON APPEAL FROM THE JUDGMENT WHETHER CONCLUSIONS UPON WHICH IT IS BASED FIND SUPPORT IN FINDINGS, OF THE TRIAL COURT. PRELIMINARY MOTION IN TRIAL COURT FOR SPECIFIC FINDINGS, OR FOR AMENDED FINDINGS, IS NOT PREREQUISITE TO THE EXERCISE OF THIS AUTHORITY ON SUCH AN APPEAL.

39 OKLA. 486. 49 LRA (NS) 548

AN ACTION UPON AN ORDER OF GARNISHMENT FAILED WHERE THE JUDGMENT AGAINST THE PRINCIPAL DEFENDANT IN THE SUIT AGAINST HIM WAS ABSOLUTELY VOID, AS THERE HAD BEEN NO LEGAL SERVICE UPON HIM.

97 U.S. 444 (1878) Settlemier v. Sullivan.

SEE PAGE OF THE WRIT.

M.R.C.P. RULE 81.03 Rules Incorporated into Statutes.

WHERE ANY STATUTE HERETOFORE OR HEREAFTER ENACTED, WHETHER OR NOT LISTED IN APPENDIX A, PROVIDES THAT ANY ACT IN A CIVIL PROCEEDING SHALL BE DONE IN THE MANNER PROVIDED BY LAW, SUCH ACT SHALL BE DONE IN ACCORDANCE WITH THESE RULES.

THE SEVERAL CONSOLIDATED ACTIONS WERE TIMELY REMOVED to the U. S. District Court, to adjudicate the SUBSTANTIAL FEDERAL CLAIMS.

6 FRD 340 (D.C. Kan.) Panhandle Eastern Pipe Line Co. v. Parish.

IF THE STATE COURT HAS JURISDICTION, AND THE REMOVAL REQUIREMENTS ARE SATISFIED, THE ELEMENTS OF FEDERAL JURISDICTION OTHERWISE EXISTING, JURISDICTION ATTACHES ON REMOVAL. Cases cited.

The N. W. HOLDING COMPANY, made a MOTION FOR DISMISSAL, N O T B A S E D UPON MATTERS ALLEGED IN THE VERIFIED PETITION, N O R, BASED ON LEGAL GROUNDS AS A MATTER OF JUDICIAL RIGHT.

y Bound

The Court granted dismissal, WITHOUT ruling on Venue Jurisdiction, or Jurisdiction, or on TWO (2) Timely APPLICATIONS FOR SUMMARY JUDGMENT, or, ordering Plaintiff to AMEND to show jurisdiction.

A timely motion was made, that the dated 15 JANUARY 1964, ORDER was VOID, Rule 60 (b)(4).

Neither the N. W. Holding Company, NOR, the Interlocked and Consolidated Cases made Answer.

INTERROGATORIES WERE SERVED to show that the Court had jurisdiction. NO RESPONSE OR OBJECTIONS were made. Timely Applications for DEFAULT and SUMMARY JUDGMENTS were made. RULE 32(b)(3),FRCP.

ALL APPLICATIONS WERE DENIED BY THE COURT.

Several applications, by COMMON LAW WRITS, and in accordance to the SANDER'S DECISION were made and denied.

83 S.CT. 1068.(1963) Sanders v. United States.

A timely Application for MANDAMUS was made to the U. S. Court of Appeals, Eighth Circuit, and denied.

TO THE UNITED STATES SUPREME COURT -:

It should be noted, that NO SUBSTANTIAL MATERIAL FACTS are in dispute to PETITIONERS' CLAIMS, because:

1. NO ANSWER was made in the Minnesota Supreme Court.
2. NO ANSWER was made in the U. S. District Court.
3. NO ANSWER was made in the U.S. Court of Appeals.

THE RECORD CLEARLY SHOWS :

AT THE COMMENCEMENT OF THE SPURIOUS ACTIONS IN UNLAWFUL DETAINER, APPELLANTS' HOMESTEAD PROPERTY HAD NO LIENS OR INDEBTEDNESS OF ANY KIND, SUCH AS, (1) unpaid taxes, (2) unpaid special assessments, (3) unpaid mortgages, (4) unpaid workman's liens, or (5) unpaid materialman's liens.

APPELLANTS were lawfully in OPEN, QUIET, EXCLUSIVE, NOTORIOUS, CONTINUOUS AND UNINTERRUPTED POSSESSION OF THE HOMESTEAD PROPERTY SINCE THE YEAR 1919.

The HOMESTEAD PROPERTY had NOT been conveyed, mortgaged, or transferred by APPELLANTS, to ANYONE.

The HOMESTEAD PROPERTY had NOT been condemned, or taken by eminent domain, or had been subject to any such proceedings whatsoever.

The APPELLANTS had NO unpaid debts of ANY kind, nor were there proceedings of ANY kind pending in ANY Court.

APPELLANTS have Title properly recorded in the Register of Deeds Office, continuously and uninterrupted since the year 1919, in the same Family.

The City Assessor recognized the property as HOMESTEAD for assessment purposes. The County Treasurer, taxing the property as HOMESTEAD.

The pretended "Torrens Title", alleged by N.W. Holding Company, left the Homestead Owner's Title out of view. Such an instrument is not a cloud upon the Homestead Owner's Title. 75 So. 2d 850 (La. 1950) Smith v. Taylor.

The Homesteader loses no rights by failing to move to vacate an unauthorized levy on his homestead. 145 Minn. 104. Beigler v. Chamberlin (1920)

A void judgment could be disregarded and treated as a nullity whenever any right was claimed under it, whether set aside, or not. 97 U.S. 444 (1878) Settlemier v. Sullivan.

THE PERTINENT RECORD APPEARS FULLY BEFORE THE UNITED STATES SUPREME COURT, AND THE CONTROVERTED QUESTIONS HAVE ACTUALLY BEEN ARGUED IN THE STATE AND FEDERAL COURTS.

THE RECORD IN THE UNITED STATES DISTRICT COURT IS COMPLETE, AND THE QUESTIONS TENDERED HAVE BEEN ADDRESSED TO THE TRIAL COURT, AND THE RECORD ON WHICH THEY WERE PRESENTED TO THE UNITED STATES COURT OF APPEALS WAS COMPLETE, AND, THEY HAVE BEEN BRIEFED AND ARGUED BEFORE THE COURT OF APPEALS.

237 F 2d 323 (1956 CA 9) Carr v. Beverly Hills Corp.

2. F.C.P. Key 1772

UNDER PRESENT PRACTICE BY MEANS OF A MOTION TO DISMISS IT CAN BE DISCOVERED WHETHER THERE IS A TRUE ISSUE OF FACT RAISED BY PLEADING AND IF THERE IS NO GENUINE ISSUE OF MATERIAL FACT, COURT MAY GRANT JUDGMENT BUT IF THERE IS ONE FACT OR SET OF FACTS, WHICH IS ESTABLISHED, COURT MAY ACCEPT IT AS UNCONVERTED AND TRY REMAINING ISSUES, AND ALL THIS MAY BE DONE WHERE COMPLAINT IS ONLY PLEADING BEFORE COURT.

3. F.C.P. Key 1959

UNDER F.R.C.P. PROVIDING FOR CONSOLIDATION OR SEPARATION OF TRIALS, THE COURT IS EMPOWERED TO ISOLATE AND TRY ANY ISSUE IN A CASE. RULE 42(b).

4. F.C.P. Key 1809

IN STOCKHOLDERS DERIVATIVE ACTION AGAINST CORP., ...WHEREIN DEFENDANTS MOVED TO DISMISS COMPLAINT ON GROUND OF LACK OF JURISDICTION, IT WAS PROPER FOR U.S. DISTRICT COURT TO TRY FACTS AS BASIS OF QUESTION BEFORE GOING FURTHER, SINCE JURISDICTION DEPENDS UPON FACTS AND NOT, IN FINAL ANALYSIS, UPON THE PLEADING.

237 F 2d 323 (1956 CA 9) Carr. v. Beverly Hills Corp. Federal Civil Procedure Key 1809.

SINCE JURISDICTION DEPENDS UPON THE FACTS AND NOT, IN THE LAST ANALYSIS UPON THE PLEADINGS, IT IS PROPER FOR THE COURT TO TRY THE FACTS AT THE BASIS OF THIS QUESTION BEFORE GOING FURTHER.

A timely APPEAL was made to the U. S. Court of APPEALS, Eighth Circuit, and "denied".

The Court of APPEALS did not ORDER Appellants to amend and show jurisdictional allegations, BUT INSTEAD, recited a portion of the Minn. Supreme Court OPINION, VOID UPON ITS FACE, that does not conform to the undisputed facts in the matter on RECORD.

A timely MOTION IN ARREST OF JUDGMENT, A N D THE JUDGMENT IS VOID, A N D MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING, was denied, by the U.S. Court of APPEALS.

A timely APPLICATION FOR WRIT OF CERTIORARI, is before the United States Supreme Court for consideration.

84 S.CT 710 (1964) New York Times Co. v. Sullivan.

24. Courts Key 399(2) QUESTIONS OF FACT.

THE SUPREME COURT'S DUTY IS NOT LIMITED TO ELABORATION OF CONSTITUTIONAL PRINCIPLES; THE COURT MUST ALSO IN PROPER CASES REVIEW THE EVIDENCE TO MAKE CERTAIN THAT THOSE PRINCIPLES HAVE BEEN CONSTITUTIONALLY APPLIED.

26. COURTS KEY 399(2)

THE SEVENTH AMENDMENT, PROVIDING THAT "NO FACT TRIED BY A JURY, SHALL BE OTHERWISE REEXAMINED IN ANY COURT OF THE UNITED STATES, THAN ACCORDING TO THE RULES OF THE COMMON LAW," IS APPLICABLE TO STATE CASES COMING TO THE SUPREME COURT; BUT ITS BAN ON REEXAMINATION OF FACTS DOES NOT PRECLUDE THE SUPREME COURT FROM DETERMINING WHETHER GOVERNING RULES OF FEDERAL LAW HAVE BEEN PROPERLY APPLIED TO THE FACTS. U.S.C.A. CONST. AMEND. 7.

ound

VII. THE FEDERAL QUESTIONS SOUGHT TO BE REVIEWED, WERE PRESENTED FOR DETERMINATION IN EACH OF THE FOLLOWING COURTS :

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION in the MINNEAPOLIS CRIMINAL COURT, by timely ANSWER (Minn. S.CT. RECORD, P. 5), and ALSO, on HEARING DAY, SEPTEMBER 26, 1961 (Minn.S.CT. RECORD, TRANSCRIPT, P. 39).

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION in the timely MOTION TO SET-ASIDE ORDER dated SEPTEMBER 26, 1961. (Minn. S.CT. RECORD, P. 5 8).

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION in the timely MOTION TO SET-ASIDE THE ORDER DATED OCTOBER 28, 1961, AS NOT A LAWFUL ORDER. Hearing Day : NOVEMBER 24, 1961. (Minn.S.CT. RECORD, P.

On Hearing Day, EVANSONS, ET AL., were represented by ATTORNEY EARL O. WEGNER.

Attorney ARNOLD I. FEINBERG appeared, representing N.W. HOLDING CO., and requested the Court to grant a postponement until DECEMBER 1, 1961, because he (Feinberg) had a case in St. Paul, Minn.). Judge DONALD T. BARBEAU granted the request.

On NOVEMBER 27, 1961, Petitioners learned from a friend, that Attorney CARL O. WEGNER, was no longer handling our case. Petitioners immediately went to Attorney WEGNER, to learn the reason why.

Attorney WEGNER explained that he did "not have the time"; that it would take a whole fleet of attorneys to straighten this out, and suggested we contact our State Senator, Attorney DONALD FRASER, because Attorney Fraser has a large law office and could put men to work steady on the case.

Attorney WEGNER again stated that he understood we might be able to repurchase our property for $38,000, and urged us to try and make arrangements with W. W. Holding Co., to rent our Homestead Property for residence, rather than again go through the forcible eviction.

On NOVEMBER 27, 1961, approximately 1 to 2 hours after Petitioners left Attorney Wegner's office, Melba P. Evanson received a telephone call from Attorney WEGNER, who stated that District Judge JOHN A. WEEKS had "withdrawn the Restraining Order".

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE MINNESOTA SUPREME COURT, in the timely APPLICATION FOR EXTRAORDINARY RELIEF, in a MOTION FOR SPECIAL RELIEF, CASE NO. 38634, Hearing Day: DECEMBER 7, 1961. (S.CT. RECORD, P. 95).

On NOVEMBER 30, 1961, with a Writ of Restitution, VOID UPON ITS FACE, the N. W. HOLDING COMPANY, their Attorneys, Agents, Employees and Owner; the MOHAWK TRANSFER AND STORAGE COMPANY; the MINNEAPOLIS POLICE, together with OTHERS, by Force, Violence, and Terror,

INVADED AND SEIZED THE HOMESTEAD PROPERTY, TOGETHER WITH ALL THE EXEMPT LIFELONG PERSONAL AND HOUSEHOLD POSSESSIONS CONTAINED THEREIN.

On DECEMBER 13, 1961, the Clerk of Supreme Court mailed an unsigned form letter stating: "IT IS ORDERED

that the petition for special relief be, and the same hereby is denied. BY THE COURT"

A timely PETITION FOR REHEARING was "denied".

About three or four months later, Chief Judge ROGER DELL of the Minnesota Supreme Court, retired.

SUBSEQUENTLY, Paul Dan ROSSO, talked to the new Chief Judge OSCAR R. KNUTSON, and learned that, "we (Sup. Ct.) never had that case". To verify this, Judge KNUTSON opened his small appointment book and on the page dated DECEMBER 7,1961, showed ROSSO there were NO CASES written therein.

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE MINNESOTA STATE SUPREME COURT, in the timely APPEAL, Case No. 38771, by BRIEF, on Page 17, in the "LEGAL ISSUES" , AND IN THE,

"ANSWER TO RESPONDENTS MOTION FOR DISMISSAL", AND,

THE SIX (6) CONSOLIDATED ACTIONS.

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE MINNESOTA STATE SUPREME COURT, IN :

THE APPLICATION FOR DEFAULT JUDGMENT AGAINST N. W. HOLDING COMPANY,

THE ORAL ARGUMENTS ON HEARING DAY, DECEMBER 6, 1962,

THE TIMELY PETITION FOR REHEARING,

THE TIMELY APPLICATION FOR DEFAULT JUDGMENT AGAINST THE SIX (6) CONSOLIDATED ACTIONS,

THE SECOND TIMELY PETITION FOR REHEARING.

AND THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE U. S. DISTRICT COURT IN :

THE REMOVAL PETITION,
THE ORAL ARGUMENTS,
THE SEVERAL MOTIONS,
THE EXHIBITS; THE INTERROGATORIES, A N D,
THE TIMELY APPLICATIONS FOR SUMMARY AND DEFAULT JUDGMENTS.

Bound

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE U. S. COURT OF APPEALS, IN :

THE TIMELY APPLICATION FOR MANDAMUS,

THE TIMELY APPEAL, BY BRIEF,

THE ORAL ARGUMENTS, HEARING DAY 10 OCT. 1966,

THE WRITTEN ORAL ARGUMENTS SUBMITTED TO THE JUSTICES ON HEARING DAY, 10 OCT. 1966,

AND BY, A TIMELY MOTION IN ARREST OF JUDGMENT A N D THE JUDGMENT IS VOID A N D MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING.

* * * *

TO THE UNITED STATES SUPREME COURT

In every proceeding mentioned, in every State and Federal Court, the STATE and FEDERAL QUESTIONS presented for determination were :

"D E N I E D"

The Court will find NORTHWEST HOLDING COMPANY has been SILENT, on all issues.

The Court will find the SIX CONSOLIDATED CASES have been SILENT on the issue, RIGHT OF POSSESSION.

REASONS FOR ALLOWANCE OF THE WRIT.

The decision of the U.S. Court of Appeals, affirms a summary judgment of dismissal, in the U. S. District Court, and finds, "The action of the District Court in dismissing the case for want of jurisdiction is so obviously correct that without further comment such action is affirmed."

THE REASONS FOR ALLOWANCE OF THE WRIT ARE AS FOLLOWS:

1. The dismissal is in direct conflict with U. S. AMENDMENT FOUR, and the principles established by the COMMON LAW, and the adjudication in 119 U. S. 608 (1866), Iron Mountain & Helena R.R. v. Johnson. THE RIGHT OF POSSESSION.

U.S. AMENDMENT FOUR, contains THE FEDERAL RIGHTS, "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, AND no warrant shall issue but upon probable cause..."

The principles established by the COMMON LAW, are found in 27 ARKANSAS 46, and 27 ARKANSAS 50, Simmons v. Robertson, and 9 COWEN'S 778 (N.Y. 1829), and 327 US 678 (1946) BELL et al v. HOOD et al.

The NORTHWEST ORDINANCE OF 1787, SEC. 14, ARTICLE II., contains a Federal Right; "The inhabitants of the said territory shall always be entitled to the benefits...of judicial proceedings according to the course of the common law."

The principles of the RIGHT OF POSSESSION, are clearly laid down in 119 U.S. 608 (1887), Iron Mountain & Helena R.R. v. Johnson.

"...at the foundation of all suits of forcible entry and detainer, that the law will not sanction or support a possession acquired by violence, but will, when appealed to in this form of action, compel the party who thus gains possession to surrender it to the party whom he dispossessed, without inquiring which party owns the property or has the legal right to the possession."

122 U.S. 597 (1878) Denver and Rio Grande Railway v. Harris.

AFFIRMED AND APPLIED, Iron Mountain and Helena Railroad v. Johnson, 119 U. S. 608.

2. The dismissal is in direct conflict with U. S. AMENDMENT 14, the "due process clause," and the principles established by the COMMON LAW, "There shall be a remedy for every wrong" ; the State and Federal Court Rules, "the just, speedy and inexpensive determination of every action" ; and Statutes 28 USC 1441, Actions Removable Generally; 42 USC 1983, 28 USC 1443; and adjudicated Cases * * on THE RIGHT to a speedy remedy at law in the State and Federal Courts, where State and Federal C I V I L R I G H T S are concerned.

* * Bell v. Hood, 327 U.S. 684

2. Where a complaint in a federal court is so drawn as to seek recovery directly under the Constitution or laws of the United States, the court must entertain the suit, except: (a) where the alleged claim appears to be immaterial and made solely for the purpose of obtaining jurisdiction, or (b) where it is wholly insubstantial and frivolous. P. 682.

3. Whether the complaint states a cause of action on which relief could be granted is a question of law which must be decided after, and not before, the court assumes jurisdiction. P. 682.

A statute is to be interpreted not only from its express language, but also with the view of effectuating its purpose of overcoming the wrong to which it is directed and affording a remedy therefor. In doing so it is proper to consider the object which the Congress sought to accomplish and the reasons for and the circumstances leading to its enactment. Any construction which impairs, nullifies or defeats the congressional purpose or intent must be avoided (Helvering v. Hammel, 311 U.S. 504; Gooch v. United States, 297 U.S. 124; Trotter v. Tennessee, 290 U.S. 354).

A statute is not to be construed in such manner as to render it ineffective or inefficient or to cause public injury (United States v. Powers, 307 U.S. 214).

A statute speaks just as plainly by inference as in any other manner, and that which is implied by its terms is as much a part thereof and is as effectual as that which is expressed (Luria v. U.S. 231 U.S. 9)

A statute confers by implication all powers necessary for the exercise thereof (So. Carolina v. United States, 199 U.S. 437).

IN THE CASE AT BAR :

The U. S. Court of Appeals attempted to rest the decision by alleging the lack of jurisdiction. But, its holding does not rest on an adequate Constitutional or Statutory ground, because of the LACK OF ANY FAIR OR SUBSTANTIAL SUPPORT WHATSOEVER.

The procedures adopted by the State and Federal Courts should not be allowed to defeat Federal and State Rights under the name of "long established local practice", where the RIGHTS were plainly and reasonably made.

This is a case where EXEMPT HOMESTEAD PROPERTY, has by direction of the Court, under "color of law", been S O L D by the SHERIFF, who personally KNEW the HOMESTEAD OCCUPANTS, and, under "color of law" ;

The HOMESTEAD PREMISES was INVADED and SEIZED by FORCE, ORGANIZED VIOLENCE and TERROR, together with ALL OF THE LIFELONG EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS THEREIN.

ALL OF THE LIFELONG EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS WHICH WERE SEIZED, WERE S O L D on JUNE 12, 1962, "to satisfy a warehouseman's lien", OVER THE OBJECTION OF THE OWNERS, EVANSON-ROSSO, BY THE SHERIFF, who personally KNEW the Owners.

The "PURCHASER, MOHAWK TRANSFER AND STORAGE COMPANY", by President HERMAN J. LADIN, who was aware of the INVASION and SEIZURE; WHO, personnaly KNEW of the OBJECTION, and personally COMMUNICATED with the Owners; and by oral agreement on JUNE 12, 1962, AGREED to NOTIFY PETITIONERS BEFORE selling the possessions to bidders of used furniture; and by TELEPHONE on _____ _____Mr. HERMAN J. LADIN, was told that PETITIONERS had not yet received any relief in Court; nevertheless, Mr. LADIN assured the PETITIONERS he would have our goods on the dock anytime we wanted it. PRES. HERMAN J. LADIN was served notices of PETITIONERS' Court proceedings.

The TENANTS, in portions of the HOMESTEAD PROPERTY, under their LANDLORD-HOMESTEAD-OWNER'S TITLE, have, in concert together with Others, wilfully AIDED in the accomplishment of the intended WRONG, by breaching their RENTAL CONTRACTS; DENYING their Landlord's Title; and ATTORNING to a Stranger, WILLIAM HOLMES, in the Interlocked action, AND SUBSEQUENTLY, to the RESPONDENT.

THE TENANTS HAVE NEVER SURRENDERED POSSESSION OF THE PREMISES TO THE HOMESTEAD OWNER, FROM WHOM THEY GAINED POSSESSION OF THE PREMISES.

THE RECORD CLEARLY SHOWS :

THAT FROM THE COMMENCEMENT OF the interlocked series of transaction, PETITIONERS have faithfully made every available effort for relief in the State and Federal Courts.

The relief sought is not available because, The HENNEPIN COUNTY DISTRICT COURT refused to set-aside judgments VOID UPON THEIR FACE, but instead had PAUL ROSSO summarily imprisoned for 10 days, because of the refusal to answer interrogatories before an employee of plaintiff's attorney. RULE 28.03.

A N D,
The MINNEAPOLIS CRIMINAL COURT ignored the PETITIONERS' timely ANSWER to the Complaint in Unlawful Detainer, and ignored Homestead Possession and Title, on hearing day, 26 SEPTEMBER 1961. (Minn. Constitution, Art. 1, Sec. 12 and Minn. St. CH. 510.)

A N D,
The MINNEAPOLIS CRIMINAL COURT "denied" the HOMESTEAD-LANDLORD the RIGHT OF POSSESSION from mere TENANTS and TRESPASSERS. (Minn. St. CH. 504. and 566.)

A N D,
The MINNESOTA SUPREME COURT denied an Application for Extraordinary Relief, WITHOUT a hearing, AND on APPEAL, the Minnesota Supreme Court stated': 265 Minn. 562 N.W. Holding Co. v. Evanson : "...They have stubbornly refused to acknowledge any fault in their own conduct despite two manifestly proper judgments against appellant Paul Rosso arising out of an assault and a breach of contract. In both proceedings he was represented by counsel who apparently could do little more than mitigate the damages he invited by his own wrongdoing. Appellants have refused to face reality or heed persistent admonitions to retain counsel. From the record it appears entirely likely that these premises were indeed the appellants' homestead and as such should have been exempt from execution had they acted diligently to assert their rights...."

The U. S. District Court summarily disposed of the matter alleging lack of jurisdiction.

The U. S. Court of Appeals affirmed the U. S. District Court.

C O N C L U S I O N

CERTIORARI does lie to review irregularities and non compliance with law where manifest injustice has been done.

The undisputed facts are presented by the CERTIORARI RECORD, that clearly show a plain, speedy, adequate remedy at law was arbitrarily and unlawfully denied PETITIONERS.

CERTIORARI in the interest of justice, should not be denied or annuled, because the State and Federal Courts would NOT CONSIDER the MERITS of PETITIONERS' CLAIMS for Affirmative Equitable Relief in accordance to the Law of the Land.

The extraordinary circumstances of the illegal INVASION and SEIZURE under "color of law", of the HOMESTEAD PROPERTY, together with the LIFELONG

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EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS, before scheduled Court Hearings were held, and while a Temporary Injunction was in force, justifies the granting of the PETITION FOR CERTIORARI.

82 S.CT. 248, 251 (1961) Garner v. Louisiana

362 U.S. 199 (1959) Thompson v. Louisville

THE U. S. SUPREME COURT DISAVOWS THAT IT LOOKS AT THE SUFFICIENCY OF THE EVIDENCE TO JUSTIFY A CONVICTION, BUT IT HAS RECENTLY HELD ON TWO OCCASIONS THAT THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT IS VIOLATED WHERE THE RECORD IS "SO TOTALLY DEVOID OF EVIDENTIARY SUPPORT".

82 S.CT. 917, 923 Coppedge v. United States

WHEN SOCIETY ACTS TO DEPRIVE ONE OF ITS MEMBERS OF HIS LIFE, LIBERTY OR PROPERTY, IT TAKES ITS MOST AWESOME STEPS. NO GENERAL RESPECT FOR, NOR ADHERENCE TO, THE LAW AS A WHOLE CAN WELL BE EXPECTED WITHOUT JUDICIAL RECOGNITION OF THE PARAMOUNT NEED FOR PROMPT, EMINENTLY FAIR AND SOBER CRIMINAL LAW PROCEDURES. THE METHODS WE EMPLOY IN THE ENFORCEMENT OF OUR CRIMINAL LAW HAVE APTLY BEEN CALLED THE MEASURES BY WHICH THE QUALITY OF OUR CIVILIZATION MAY BE JUDGED.

4TH ED. BLACK'S LAW DICTIONARY, 382

CONSOLIDATION OF ACTIONS

It means the merging of two or more actions into one so that they lose their separate identity, WHILE in trial of "several actions together" each retains its separate character and requires the entry of a separate judgment.

200 Minn. 299 Ramswick v. Messerer

164 A 132, 134, 107 Reeves v. Pa. Gas Works Co.

249 NYS 33, 36; 4 F Supp 25, 30 Natl. Union Fire Ins. Co. v. Chesapeake Ry. Co.

4TH ED. BLACK'S LAW DICTIONARY, 382

CONSOLIDATION RULE

The federal courts are authorised to consolidate actions involving a common question of law or fact.

FRCP, RULE 42.

239 F.Supp. 51 (D.C. Ill. 1965) Hazeltine Research, Inc. v. Zenith Radio Corp.

CONSPIRACY
Key 1

CHARACTER AND EFFECT OF CONSPIRACY ARE NOT TO BE JUDGED BY DISMEMBERING IT AND VIEWING ITS SEPARATE PARTS BUT ONLY BY LOOKING AT IT AS A WHOLE.

Register of Deeds, Hennepin County, Minnesota
THE FOLLOWING INSTRUMENT WAS TIMELY FILED :

INSTRUMENT # 3343527 FILE # 8305
BOOK 915 PAGE 404 IN VAULT FILED:
27 APRIL 1962

27 APRIL 1962

TO: The Register of Deeds Office, Hennepin County
County Courthouse, Minneapolis, Minnesota

HOMESTEAD NOTICE

This Notice is made pursuant to Minnesota Statutes Chapter 510.07.

Regarding : Homestead Property of Melba P. Evanson, located at 2324-2326 Central Avenue Northeast, Minneapolis 18, Minnesota.
(Lot 4, Block 9, Wilson's Rearrangement of Blocks 2,3,6,7,9,10,11,14,15,19,20,21,24,26,29,31,33,35, 37, 39, and 41 of East Side Addition to City of Minneapolis.)

The above described property is the Homestead Property of Melba P. Evanson and Gordon L. Evanson and family, and this Homestead Property is Our Home, and has not been abandoned.

HOMESTEAD PROPERTY OWNER

(NOTARIAL SEAL)
Witnesses:
Muta G.Buchholz
Geneva A. Reed

2324-2326 Central Avenue Northeast
Minneapolis 18, Minnesota
/s/ Melba P. Evanson
Melba P. Evanson
27 April 1962

- - - - - - - - -

MINN. ST. CH. 510.07 SALE OR REMOVAL PERMITTED; NOTICE.

THE OWNER MAY SELL AND CONVEY THE HOMESTEAD WITHOUT SUBJECTING IT, OR THE PROCEEDS OF SUCH SALE FOR THE PERIOD OF ONE YEAR AFTER SALE, TO ANY JUDGMENT OR DEBT FROM WHICH IT WAS EXEMPT IN HIS HANDS. HE MAY REMOVE THEREFROM WITHOUT AFFECTING SUCH EXEMPTION,

IF HE DO NOT THEREBY ABANDON THE SAME AS HIS PLACE OF ABODE. IF HE SHALL CEASE TO OCCUPY SUCH HOMESTEAD FOR MORE THAN SIX CONSECUTIVE MONTHS HE SHALL BE DEEMED TO HAVE ABANDONED THE SAME UNLESS, WITHIN SUCH PERIOD, HE SHALL FILE WITH THE REGISTER OF DEEDS OF THE COUNTY IN WHICH IT IS SITUATED A NOTICE, EXECUTED, WITNESSED, AND ACKNOWLEDGED AS IN THE CASE OF A DEED, DESCRIBING THE PREMISES AND CLAIMING THE SAME AS HIS HOMESTEAD. IN NO CASE SHALL THE EXEMPTION CONTINUE MORE THAN FIVE YEARS AFTER SUCH FILING, UNLESS DURING SOME PART OF THE TERM THE PREMISES SHALL HAVE BEEN OCCUPIED AS THE ACTUAL DWELLING PLACE OF THE DEBTOR OR HIS FAMILY.

83 S.Ct. 822 (1963) Fay v. Noia

9. Courts Key 495

STATE COURTS, EQUALLY WITH FEDERAL COURTS, ARE CHARGED WITH DUTY OF PROTECTING AN ACCUSED IN ENJOYMENT OF HIS CONSTITUTIONAL RIGHTS.

16. Judgment Key 485

VOID JUDGMENTS MAY BE COLLATERALLY IMPEACHED.

17. Constitutional Law Key 271

CONVENTIONAL NOTIONS OF FINALITY IN CRIMINAL LITIGATION CANNOT BE PERMITTED TO DEFEAT MANIFEST FEDERAL POLICY THAT FEDERAL CONSTITUTIONAL RIGHTS OF PERSONAL LIBERTY ARE NOT TO BE DENIED WITHOUT FULLEST OPPORTUNITY FOR PLENARY FEDERAL JUDICIAL REVIEW.

20. Constitutional Law Key 257

DUE PROCESS DENIED IN PROCEEDING LEADING TO CONVICTION IS NOT RESTORED JUST BECAUSE STATE COURT DECLINES TO ADJUDICATE THE CLAIMED DENIAL ON THE MERITS.

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PETITIONERS PRAY, The UNITED STATES SUPREME COURT, for the reasons herein above stated, CORRECT ERRORS OF LAW WHICH ARE MATERIALLY HARMFUL; and COMPEL the RETURN of the HOMESTEAD PROPERTY, together with ALL OF THE LIFELONG EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS; and REDRESS THE VIOLATIONS AND DEPRIVATIONS; and GRANT AFFIRMATIVE EQUITABLE RELIEF.

Respectfully submitted,

Paul Dan Rosso

PAUL DAN ROSSO

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United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 18,319.

Gordon Evanson, et al., Appellants,

vs.

Northwest Holding Company, a Minnesota Corporation, Appellee.

Appeal from the United States District Court for the District of Minnesota.

[November 15, 1966.]

Before VOGEL, Chief Judge, MATTHES, Circuit Judge, and DUNCAN, Senior District Judge.

PER CURIAM.

This "protracted and unhappy litigation" began in 1961 as an unlawful detainer action in Municipal Court in the City of Minneapolis, Minnesota. At all times and in all courts the appellants have spurned the suggestions that they employ counsel and have insisted on appearing on a *pro se basis*. For details regarding the litigation in the Minnesota courts see *Northwest Holding Company* v. *Evanson*, 1963, 265 Minn. 562, 122 N.W.2d 596. In dismissing that appeal, the Supreme Court of Minnesota,

after patiently reciting facts from the record, stated at page 602 of 122 N.W.2d:

> "This has been unusual and unfortunate litigation. The appellants have brought on themselves great hardship, severe economic loss, and needless anguish for which they now appear to have no remedy. They have stubbornly refused to acknowledge any fault in their own conduct despite two manifestly proper judgments against appellant Paul Rosso arising out of an assault and a breach of contract. In both proceedings he was represented by counsel who apparently could do little more than mitigate the damages he invited by his own wrongdoing. Appellants have refused to face reality or heed persistent admonitions to retain counsel. From the record it appears entirely likely that these premises were indeed the appellants' homestead and as such should have been exempt from execution had they acted diligently to assert their rights. Although in good conscience it might have been proper for these creditors to satisfy their judgments out of the Central Avenue property, overriding public policy would have prevented it. However, at most, they were entitled to only $8,100. Nevertheless, by levying execution and securing a decree of registration, William Holmes has obtained real estate worth approximately $35,000 to satisfy claims amounting to less than one-fourth of that amount. Holmes' acquisition has been euphemistically described as a 'windfall.' It is difficult to draw the exact line between what is the legitimate assertion of a client's rights and what amounts to an unfair overreaching of his adversary. Wherever that line may be, the gross injustice which has resulted from exploiting the improvidence of these appellants has brought little credit to the legal profession."

Subsequent to the adverse determinations by the Supreme Court of Minnesota this action was commenced by the losing parties in the United States District Court for the

District of Minnesota, to "Review the Judgment of the Minnesota Supreme Court entered 21 June 1963; and Review the ORDER denying the Motions for Enlargement of Time with Affidavit for PETITION FOR REHEARING, and the PETITION FOR REHEARING denied 22 November 1963, entered in the above entitled action". Holding that "Obviously, this Court has no jurisdiction to entertain petitioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein", Judge Nordbye granted respondent's motion to dismiss, such order being dated January 15, 1964.

On April 16, 1964, Judge Nordbye entered the following order:

> "Plaintiffs have filed motions for a writ of error coram nobis and/or for a bill of review apparently directed to the orders of this Court dated January 15, 1964, and March 16, 1964. The motions came on for hearing on April 13, 1964, and were submitted by plaintiffs on the record filed in support thereof.
>
> "There is no merit or substance to the motions. They are frivolous, and they will be, and each of them is, dismissed. It is so ordered."

On June 11, 1964, Judge Nordbye entered an order denying a motion for a rehearing of plaintiffs' motion for writs of error coram nobis and/or for bill of review. The record in the District Court discloses literally hundreds of pages of motions of various and sundry kinds, all aimed at trying to obtain the relief ultimately denied by the Supreme Court of Minnesota in 122 N.W.2d 596, supra.

Finally, on December 20, 1965, Judge Nordbye entered the following order:

> "This proceeding has been pending for almost two years in this Court, and notwithstanding that the

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Court has heretofore dismissed the action for lack of jurisdiction and ruled adversely to the plaintiffs on motions for rehearing and default judgment, and in some five or more motions seeking relief by way of so-called writs of coram nobis and/or bills of review, plaintiffs persist in filing frivolous motions. Clearly, the time for a final cessation of the filing herein of further documents by the plaintiffs is long past due.

"The Clerk of this Court, therefore, is directed and ordered not to accept for filing from plaintiffs, or from anyone in their behalf, further motions, pleadings, or any other documents of whatever description in the above proceeding. All motions heretofore filed and as to which no orders have been made by this Court are denied with prejudice.

"This order does not assume to prevent plaintiffs from proceeding by way of appeal to the Eighth Circuit Court of Appeals from any order of this Court if any right to appeal remains under the law."

Thereafter appeal was taken to this court. The action of the District Court in dismissing the case for want of jurisdiction is so obviously correct that without further comment such action is affirmed.

A true copy.

Attest:

Clerk, U. S. Court of Appeals, Eighth Circuit.

JUDGMENT

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 18, 319. September Term, 1966.

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,

Appellants,

vs.

Northwest Holding Company, a
Minnesota Corporation.

APPEAL FROM the United States District Court for the .D.....District of Minnesota.

THIS CAUSE came on to be heard on the record from the United States District Court for the .D..... District of Minnesota, and was argued for appellants

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court, that the judgment of the said District Court, in this cause, be, and the same is hereby, affirmed.

November 15, 1966.

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UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
September Term, 1966

No. 18319

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Appellants,

vs.

Northwest Holding Company.

Appeal from the United States District Court
for the District of Minnesota.

Appellants' "Motion in Arrest of Judgment" and rehearing filed in this cause having been considered, it is now here ordered by this Court that the same be, and it is hereby, denied.

November 29, 1966.